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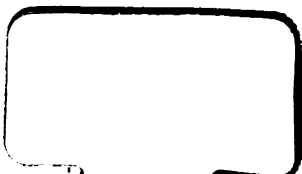
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CONCERNING

CLAIMS AGAINST GREAT BRITAIN,

TRANSMITTED TO THE

SENATE OF THE UNITED STATES

IN ANSWER TO THE

RESOLUTIONS OF DECEMBER 4 AND 10, 1867, AND OF MAY 27, 1868.

VOLUME IV.

WASHINGTON:
GOVERNMENT PRINTING OFFICE.
1869.



PAPERS

RELATING TO

CLAIMS AGAINST GREAT BRITAIN.

GENERAL APPENDIX No. I.

Proclamations and declarations of powers other than Great Britain, issued subsequently to the Queen's proclamation of neutrality.

No.	From whom and to whom.	Date.	Subject.	Page.
10	Mr. Sanford to Mr. Seward.	1861. July 2	<p style="text-align: center;">BELGIUM.</p> Inclosing copy of notice in "Moniteur," (official,) of 25th June, in regard to privateers, &c. Belgian adheres to principles of Paris declaration of 1856; will not allow privateers to enter her ports, except in distress; and refuses to recognize commissions or letters of marque. Belgium subjects engaging in privateering are liable to be treated as pirates abroad, and to be prosecuted at home with utmost rigor of the law.	3
10	Mr. Dayton to Mr. Seward.	June 12	<p style="text-align: center;">FRANCE.</p> Inclosing copy of "Le Moniteur Universel," containing Emperor's formal declaration in respect to privateers, &c. Prohibits vessels of war and privateers of either belligerent from remaining in French ports more than twenty-four hours, except in distress; also prohibits sale of captured goods in said ports; forbids French subjects to aid or engage in privateering or equipment of vessels of war for either party, or to enlist in their military or naval service, and commands them to abstain from all violations of neutrality at home or abroad. Infringement of these prohibitions subjects the offender to prosecution and the loss of protection of his government.	4
5	Mr. Dryer to Mr. Seward.	Sept. 7	<p style="text-align: center;">HAWAIIAN ISLANDS.</p> Inclosing copy of King's proclamation, which declares neutrality between United States and "certain States thereof, styling themselves Confederate States of America." All captures made within King's jurisdiction are unlawful. All subjects, or persons residing within the realm, are prohibited from aiding or engaging in privateering, on pain of losing protection of the govern-	5

No.	From whom and to whom.	Date.	Subject.	Page.
		1861.	ment. No adjudication of prizes, or sale of captured goods, will be allowed in Hawaiian ports; nor will privateers, or their prizes, be permitted to enter said ports, except in distress.	
			THE NETHERLANDS.	
4	Mr. Pike to Mr. Seward.	June 16	Inclosing copies of proclamations about to be issued by government, which prohibit privateers, or their prizes, from entering Dutch ports, except in distress; adhere to declaration of Paris of 1856, in refusing to recognize commissions or letters of marque; forbid subjects to engage in privateering on pain of prosecution at home and being treated as pirates abroad, or to carry contraband of war or dispatches of either belligerent on pain of losing the protection of his Majesty's government.	5
			PORTUGAL.	
13	Mr. Harvey to Mr. Seward.	Aug. 25	Inclosing copy of a note from the Foreign Office, covering King's proclamation in regard to privateers. The government adheres to the Paris declaration of 1856; forbids all persons engaging in privateering in Portuguese jurisdiction, and prohibits entrance of privateers or prizes into Portuguese ports, except in cases of necessity.	7
			PRUSSIA.	
178	Mr. Wright to Mr. Seward.	June 25	Inclosing copy of "National Zeitung," containing Baron Schlieffen's dispatch to Baron Gerolt; also of an order from minister of commerce, directing the mercantile classes to abstain from enterprises forbidden by international law, and by ordinance of 12th June, 1856, and denying protection of the government to Prussian shipping or subjects engaged in privateering, carrying contraband of war, or forwarding dispatches. Mr. Wright declares sympathy of German States to be with United States.	8
			RUSSIA.	
18	Mr. Appleton to Mr. Seward.	June 3	Inclosing copies of two orders of Russian government, directing that the flags of confederate men-of-war must not be saluted, but that confederate merchant vessels shall be treated according to rules contained in treaty with America of December, 1832, even if their papers are not regular; and that, should crews of such vessels not acknowledge authority of United States consuls, they must abide by decision of local Russian authorities.	8

CLAIMS AGAINST GREAT BRITAIN.

V

GENERAL APPENDIX No. I—Continued.

No.	From whom and to whom.	Date.	Subject.	Page.
7	Mr. Perry to Mr. Seward.	1861. June 19	SPAIN. Inclosing copy of royal decree, which proclaims neutrality; forbids all arming, equipping, or providing of privateers, under any flag, in Spanish ports; or acceptance of letters of marque by Spanish subjects; or entry into Spanish ports of privateers or prizes, except in distress; or the sale of captured goods in said ports; or blockade-running, carrying contraband of war and dispatches for either party; or enlistment of Spanish subjects in belligerent service, on pain of prosecution at home, and loss of protection of government.	9
56	Mr. Savage to Mr. Seward.	Sept. 6	Inclosing copies of correspondence with Consul Martin, at Matanzas, in reference to the entry into that port of vessels bearing the confederate flag; also copy of decree of Captain General of Cuba, permitting entry of such vessels to discharge and take on cargoes in the ports of Cuba, provided their papers excite no suspicion of piracy or other crime against the law of nations, and regarding such vessels as coming from a country which has no accredited consul in Cuban territory. Mr. Savage has made no communication to the authorities on the subject.	10

GENERAL APPENDIX No. II.

Hasty recognition of rebel belligerency. By George Bemis.

	Preface.....	12
	The new position of the British ministry—that the American proclamation of blockade of the confederate ports necessitated the Queen's proclamation of neutrality—an afterthought.	14
	The American proclamation of blockade not the occasion of the recognition of confederate belligerency, because, supposing the former to have been officially communicated, it was not known to have been enforced at the date of the latter; and, furthermore, if enforced, was not such an act as ought to have been internationally treated as an act of war.	23
	Correction of various misstatements of Historicus in his article of March 22, and incidental notice of Earl Russell's dispatch to Lord Lyons of March 6, 1861.	26
	The recognition of confederate belligerency not a bygone, but a continuing reality.	32
Mr. Vernon Harcourt.....	Appendix—the neutrality of England—communication of Historicus to the London Times of March 22, 1865.	33
Mr. George Bemis.....	British neutrality—hasty recognition of rebel belligerency and our right to complain of it.	37

GENERAL APPENDIX No. III.

Confederate menaces against neutral rights.

No.	From whom and to whom.	Date.	Subject.	Page.
	Mr. Vernon Harcourt.	1865. Jan. 5	"Confederate menaces against neutral rights." Article of Historicus in the London Times, of January 16, 1865.	47

GENERAL APPENDIX No. IV.

The bark Maury at New York.

Mr. Crampton to Mr. Marcy.	1855. Oct. 11	Inclosing depositions of Mr. Barclay, British consul at New York, and others, in reference to the bark Maury, alleged to be fitting out for the Russian government, and asking the United States government to investigate the facts, and should the charges be confirmed, to take measures to defeat hostile intentions of the persons engaged in fitting out said vessel. Attention is also asked to Mr. Barclay's statement that a plan exists for equipping similar vessels in other United States ports.	53
Mr. Hunter to Mr. Cushing.	Oct. 12	Inclosing copy of Mr. Crampton's note of October 11, with accompanying affidavits, in reference to bark Maury.	55
Mr. Cushing to Mr. McKeon.	Oct. 12	Telegraphic order to take information from Mr. Barclay, and prosecute bark Maury if cause appears.	55
Mr. Cushing to Mr. Marcy.	Oct. 12	Notifying Secretary of State of instructions sent to United States attorney at New York in respect to bark Maury.	55
Mr. McKeon to Mr. Barclay.	Oct. 13	Requesting information in reference to bark Maury.	55
Mr. McKeon to Mr. Redfield.	Oct. 13	Asking an inspector to be sent on board bark Maury to examine her cargo, and that her clearance be delayed until inspector's report is received.	56
Mr. Cushing to Mr. McKeon.	Oct. 13	Inclosing copy of Mr. Crampton's note of the 11th in regard to the bark Maury, referred to in telegram of 12th.	56
Mr. Benedict to Mr. Redfield.	Oct. 15	Inclosing report of inspectors who examined the bark Maury.	56
Mr. McKeon to Mr. Edwards.	Oct. 16	Notifying him that a libel has been prepared against the bark Maury in consequence of charges of British minister, and that verification of the pleading by some one representing British government is necessary.	57
Mr. McKeon to Mr. Cushing.	Oct. 17	Reporting that a libel was that day filed in United States district court against the bark Maury under third section of neutrality act of April 20, 1818.	57
Mr. McKeon to Mr. Hillyer.	Oct. 17	Requesting a careful examination and report as to cargo of the bark Maury, intimating that munitions of war are supposed to be stowed under the coal in her hold.	57

GENERAL APPENDIX No. IV—Continued.

No.	From whom and to whom.	Date.	Subject.	Page.
	Mr. A. A. Low to Mr. McKeon.	1855. Oct. 18	Sworn statement of Mr. Low and Nathan B. Palmer explaining the construction and armament of the bark Maury, and pledging themselves to prove to the satisfaction of the British consul that the charges against said bark are groundless. Requesting, also, that in case of such satisfactory proof the consul bear the expense thereof.	57
	Mr. Hillyer to Mr. McKeon.	Oct. 19	Reporting examination of cargo of bark Maury and stating that should it be found necessary to overhaul it thoroughly and take out the coal, the expense would probably reach one hundred and fifty or two hundred dollars.	58
	Mr. Edwards to Mr. McKeon.	Oct. 19	Expressing satisfaction with Mr. Low's statement, and his opinion that the libel against bark Maury should be lifted.	58
	Mr. McKeon to Mr. Cushing.	Oct. 19	Inclosing statement of one of the firm of A. A. Low & Brothers, owners of the bark Maury, and letter of Mr. Edwards in reference to that vessel; also, stating that he had discharged the vessel, and asking approval of Attorney General.	59
	Mr. Cushing to Mr. Marcy.	Oct. 19	Inclosing Mr. McKeon's letter of this date in reference to bark Maury.	59
	Mr. Cushing to Mr. McKeon.	Oct. 22	Acknowledging receipt of his letter of 19th and approving his course therein described.	59
	Mr. Cushing to Mr. Marcy.	Oct. 22	Communicating history and result of proceedings in case of bark Maury, and giving a resumé of affidavits, statements, and explanations in said case. Inclosing copies of Mr. McKeon's report on affidavits submitted by parties interested in Maury and Mr. Edward's letter to Mr. McKeon.	59
	Messrs. A. A. Low & Brothers to Mr. Stevens.	.....	Giving statement of proceedings in case of bark Maury, and inclosing card from Mr. Barclay, published in New York Herald, denying that munitions were found "concealed under a quantity of cotton on board," and stating that had the Messrs. Low's explanations been given sooner, the course adopted would not have been resorted to. Messrs. Low complain of the character of the proceedings against their vessel, and of the insufficiency of Mr. Barclay's apology.	61
	Act of Congress..	1838. Mar. 10	Concerning punishment of military expeditions against the conterminous territory of foreign governments at peace with the United States.	62

GENERAL APPENDIX No. V.

Rights accorded to neutral and rights claimed by belligerents.

The President to the House of Represent's.	1854. May 11	Transmitting report of the Secretary of State, with accompanying papers, in response to resolution of the 1st instant. H. Ex. Doc. No. 103, 33d Congress, 1 sess.	64
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No.	From whom and to whom.	Date.	Subject.	Page.
	Mr. Marcy to the President.	1854. May 11	Transmitting copies of correspondence between United States and foreign governments concerning rights of neutrals and of belligerents in the pending war with Europe. Called for by resolution of the House of Representatives of the 1st instant.	64
	Mr. Crampton to Mr. Marcy.	Apr. 21	Stating that the English and French governments have decided not to issue letters of marque, &c., in the war with Russia. Inclosing a copy of Queen's proclamation asserting her right to seize contraband of war and maintain blockade as against neutrals; but waiving her right to seize enemy's property on board of neutral, or neutral property on board of enemy's ships, and to issue letters of marque. Her Majesty's government confidently trusts that the United States will observe the strictest neutrality.	64
	Count de Sartiges to Mr. Marcy.	Apr. 28	Stating that the French and English governments have decided not to issue letters of marque, &c., in the war with Russia, and inclosing copy of the Emperor's proclamation, identical in terms with that of the Queen of England. His Majesty confidently trusts that the United States will observe the strictest neutrality.	65
	Mr. Marcy to Mr. Crampton.	Apr. 28	Acknowledging receipt of his note of the 21st, covering copy of Queen's proclamation in reference to rules of conduct to be observed in war with Russia. These communications having been submitted to the President, he expresses his satisfaction that the doctrine of "free ships make free goods," so long contended for by United States, has received qualified sanction of Great Britain and France, and his wish that it might be henceforth fully recognized as a rule of international law. The United States desire to unite with other powers in a declaration to that effect. The United States will observe the strictest neutrality in the forthcoming war, and will rigidly enforce obedience to its laws upon that subject.	66
	Mr. Crampton to Mr. Marcy.	May 9	Inclosing copy of the London Gazette of the 18th ultimo, containing two orders of the Queen, extending to the 15th instant the time allowed for Russian ships to clear from, and bring cargoes to, Great Britain from Russian ports not blockaded, and granting additional facilities to trade with such ports.	67
25	Mr. Buchanan to Mr. Marcy.	Feb. 24	Detailing conversation with Lord Clarendon in reference to course to be pursued by Great Britain with regard to neutrals during impending war. Lord Clarendon said that subject was before cabinet, but not yet decided. Decision should be at once communicated to Mr. Buchanan. Mr. Buchanan contended for the American doctrine of "free ships, free goods," and referred to the evil consequences hitherto	68

GENERAL APPENDIX No. V—Continued.

No.	From whom and to whom.	Date.	Subject.	Page.
		1854.	<p>following the abuse of the right of search. The United States waited for the consent of the great maritime nations to this doctrine before concluding treaties with minor powers. Mr. Buchanan is of opinion that Great Britain will yield in this matter to our wishes and the desires of European governments. Lord Clarendon commended highly our neutrality law (of April 20, 1818) as superior to that of England, especially in regard to privateers. Mr. Buchanan suggests that the President issue a proclamation after the war shall have commenced, exhorting the proper authorities to be vigilant in executing this law.</p>	
25	Mr. Buchanan to Mr. Marcy.	Mar. 17	<p>Giving account of interview with Lord Clarendon, in which the latter read her Majesty's forthcoming declaration in regard to neutrals, conforming to American doctrine in regard to blockade, and waiving right to issue letters of marque. Mr. Buchanan stated strongly his approbation of the course therein indicated. Lord Clarendon spoke of the difficulty in changing the former practice. He had repeated to the cabinet his conversation with Mr. Buchanan, which had been influential in inducing them to adopt this liberal policy toward neutrals. Although the declaration had not been finally revised by the cabinet, its principles would not be changed.</p>	69
26	.....do.....	Mar. 24	<p>Referring to conversation with Lord Clarendon about privateering. Lord Clarendon spoke strongly against it as contrary to modern civilization, and complimented highly the treaties of the United States with different nations, stipulating that if the subjects of one of the parties, being neutral, accept commissions to cruise against the other from an opposing belligerent, they shall be punished as pirates. Mr. Buchanan says that these ideas were doubtless suggested by apprehensions that Americans would accept privateering commissions from Russia, and that though his lordship did not propose such a treaty that was evidently his drift. In answer, Mr. Buchanan admitted abuses of privateering, but thought we could not agree to its abolition, unless naval powers would consent to total abolition of war upon private property at sea as on land. This policy, he thought, was dictated by Christianity and civilization, and would be supported by the United States.</p>	70
27	.....do.....	Mar. 31	<p>Her Majesty's declaration, referred to in dispatch of the 17th, has given great satisfaction to diplomatic representatives in London, and is more liberal than was expected.</p>	71

GENERAL APPENDIX No. V—Continued.

No.	From whom and to whom.	Date.	Subject.	Page.
35	Mr. Marcy to Mr. Buchanan.	1854. April 13	Expressing satisfaction of United States government with the two main points of course indicated by Lord Clarendon to be pursued by British government in the event of a European war. France is expected to follow the same course. Both Great Britain and France would like to enter into treaty with United States, stipulating that the subjects of either, being a neutral, who should accept privateering commissions from an opposing belligerent to cruise against the other party, should be treated as pirates. The United States government would not consent to a convention totally suppressing privateering, which would preclude it from resorting to its merchant marine in case of war. The government trusts Great Britain will not adhere to her doctrines in regard to blockade and neutral trade with belligerents asserted during wars after the French Revolution. The "right of search," if exercised against us harshly in the approaching war, will excite deep and wide-spread indignation.	71
12	Mr. Mason to Mr. Marcy.	Mar. 22	Refers to the difficulty of combined action between France and England in regard to neutrals, on account of the difference in their hitherto adopted policy. Has endeavored to impress upon the French government that the United States would not be satisfied except by the recognition of those liberal principles which she has always maintained, and that, should these principles be adopted, our government would have no difficulty in preserving neutrality. He regards the occasion as auspicious for the establishment of our cherished doctrines on this subject.	72
14	.....do	Mar. 30	Inclosing slips from Moniteur, containing report of minister of foreign affairs and Emperor's declaration on subject of neutrals, letters of marque, &c. Mr. Mason thinks these documents will prove satisfactory.	73
	Mr. Bille to Mr. Marcy.	Jan. 28	Communicating the policy of strict neutrality resolved upon by the King of Denmark in concert with the King of Sweden and Norway in reference to the war declared by the Porte. Belligerent, war, or merchant vessels may enter Danish ports, the government reserving the right to interdict them from the port of Christiana. Privateers will not be admitted to any Danish port or anchorage. Belligerent vessels may purchase anything in Danish ports, except contraband of war. Prizes, except in distress, must not enter Danish ports. Danish vessels and cargoes should receive every security from belligerents. The King deems these regulations to be conformable to the law of nations.	73

GENERAL APPENDIX No. V—Continued.

No.	From whom and to whom.	Date.	Subject.	Page.
	Mr. DeSibbern to Mr. Marcy.	1854. Jan. 28	Communicating the policy of strict neutrality resolved upon by the King of Sweden and Norway, in concert with the King of Denmark, in reference to the war declared by the Porte. Belligerent, war, or merchant vessels may enter his ports, the government reserving the right to interdict them from the port of Christiana. Privateers will not be admitted to said ports or to anchorage. Belligerent vessels may purchase anything in said ports except contraband of war. Prizes, except in distress, must not enter said ports. The vessels of Sweden and Norway, with their cargoes, should receive every security from belligerents. The King deems these regulations to be conformable to the law of nations.	74
	Mr. Marcy to Mr. Bille, and (mutatis mutandis) to Mr. De Sibbern.	Feb. 14	Acknowledging his note of 28th communicating neutral policy determined upon by the King of Denmark. The views of the Danish government have been submitted to the President. The government and people of United States are deeply interested in course of events in Europe.	75
125	Mr. Schroeder to Mr. Marcy.	April 10	Inclosing copy of Swedish ordinance defining rights and obligations of Swedish people engaged in commerce and navigation. Swedish vessels must have proper documents and must not hoist a foreign flag. Where Swedish ships are abroad with insufficient crews neutral seamen should be enlisted in preference to subjects of belligerents, and in no case should the latter exceed one-third of the crew. Such changes in the crews of Swedish vessels should be entered and attested before the proper authorities. Swedish ships are forbidden to attempt to enter blockaded ports, and to carry contraband of war, dispatches, or troops. Belligerent vessels may bring into or take away from Swedish ports anything except contraband of war. Swedish subjects must not fit out, or take service in, privateers. Privateers will not be admitted to Swedish ports, except in distress, nor shall captures be adjudicated or sold in Sweden, and Swedish subjects must not purchase captured goods. Swedish vessels, unless under convoy, must show their papers. Swedish ships observing the above regulations should enjoy free navigation, and will receive support from ministers and consuls abroad, should this right be violated; protection cannot, however, be extended to those disregarding them. In case of seizure of a Swedish ship, the captain must report the circumstances to Swedish consul.	76
6	Mr. Marcy to Mr. Seymour.	May 9	Referring to declarations of England and France, and stating that this government	77

GENERAL APPENDIX No. V—Continued.

No.	From whom and to whom.	Date.	Subject.	Page.
		1854.	will pursue a strictly neutral policy. Expressing confidence in fair and liberal course of belligerents toward the neutrals. Referring to suggested convention to recognize the doctrine of "free ships, free goods," and desiring to know the views of the Russian government thereon.	

GENERAL APPENDIX No. VI.

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		1867.		
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			2. British proclamation for putting in execution the law to prevent the enlist- ing of British subjects in foreign ser- vice, and the fitting of vessels for warlike purposes, without his Majes- ty's license, June 6, 1823.	169
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GENERAL APPENDIX No. IX.

Why confederate cruisers burn their prizes. Report of the engagement between the Kearsarge and the Alabama.

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			Editorial from the London Times of June 16, 1864, on the above letter of Captain Semmes.	211
	J. M. Mason .....	.....	Inclosing Captain Semmes's report of the engagement between the United States ship Kearsarge and the Alabama.	213
	Captain Semmes.	Captain Semmes's report of the engagement between the Kearsarge and the Alabama, off Cherbourg.	213

GENERAL APPENDIX No. X.

Correspondence respecting the Tuscaloosa.

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		1863.		
	The Secretary to the Admiralty to Mr. Hammond.	Sept. 26	Inclosing letter of Rear-Admiral Sir B. Walker relating to the proceedings of vessels of war of the so-styled Confederate States at the Cape of Good Hope.	215
	Sir B. Walker to the Secretary to the Admiralty.	Aug. 19	Proceedings at the Cape of Good Hope of the Alabama, her reported tender, Tuscaloosa, and the Georgia. Arrival in Simon's Bay of the Tuscaloosa as a tender to the Alabama, having still on board her original cargo of wool, she never having been condemned in a prize court. Correspondence between Sir B. Walker and the governor of the Cape of Good Hope concerning the character of the Tuscaloosa.	215
	Sir F. Rogers to Mr. Hammond.	Sept. 29	Inclosing dispatch from the governor of the Cape of Good Hope reporting the arrival at the cape of the Alabama, and requesting instructions on many questions that have arisen from the state of affairs consequent on the presence of that vessel in the colony.	219
	The Secretary to the Admiralty to Mr. Hammond.	Oct. 21	Inclosing letter from Sir B. Walker relative to the Tuscaloosa and the Sea Bride, captured by the Alabama, having visited Saldanha Bay, and the question whether the laws of neutrality prescribed by the Queen's proclamation have not been infringed by the proceedings of these vessels.	226
	Do.....	Oct. 21	Inclosing letter from Sir B. Walker relative to the movements of the Alabama and her prizes.	227
	Do.....	Oct. 21	Departure of the Georgia for Simon's Bay on the 29th August, and the arrival there on the next day of the United States steamer Vanderbilt.	228
	Do.....	Nov. 24	Departure of the Alabama from the Cape of Good Hope on the 25th of August.	228
	Mr. Elliot to Mr. Hammond.	Dec. 9	Inclosing a dispatch from the Duke of Newcastle to the governor of the Cape of Good Hope concerning the proceedings at the cape of the Georgia, the Alabama, and her reputed tender, the Tuscaloosa. The Alabama, whatever may have been her previous history, must be treated as a ship of war belonging to a belligerent power. In regard to the case of the Tuscaloosa, a vessel captured by the Alabama and brought with her cargo into Simon's Bay, she did not lose the character of a prize because she entered that port in charge of an officer and armed with two small guns. If she was really an uncondemned prize, brought into British waters in violation of her Majesty's neutrality, all control over the Tuscaloosa by her captors should have been relinquished and the vessel should be retained until restored to her original owners.	229

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		1864.		
	Mr. Elliot to Mr. Hammond.	Jan. 29	Inclosing a dispatch from the governor of the Cape of Good Hope of the 19th December concerning the treatment at the cape of the Alabama and her prizes.	229
	The Secretary to the Admiralty to Mr. Hammond.	Feb. 15	Detention by the British authorities at the cape of the Tuscaloosa until she can be transferred to her lawful owners, the vessel being considered as an uncondemned prize, captured by the Alabama.	230
	Sir F. Rogers to Mr. Hammond.	Feb. 25	Inclosing two dispatches from the governor of the Cape of Good Hope to the Duke of Newcastle announcing the second arrival at Simon's Bay of the Tuscaloosa, and her retention by the colonial authorities, under instructions of the home government, until properly reclaimed by her original owners. The rebel officer in charge of the Tuscaloosa protests against this action of the authorities, because on a former occasion she was recognized as a ship of war. The United States consul says he has no authority from the owners to take charge of the vessel; he therefore desires that the colonial authorities will retain possession of the vessel until he obtains such authority.	236
	The Secretary to the Admiralty to Mr. Hammond.	Feb. 25	Inclosing a dispatch from Rear-Admiral Sir B. Walker reporting the action of the British authorities in taking possession of the Tuscaloosa. Inventory of the movables of that vessel made by the British naval authorities in connection with the United States consul. The rebel officers in charge of the Tuscaloosa have sailed for England.	239
	Mr. Elliot to Mr. Hammond.	Mar. 7	Inclosing dispatch, dated the 4th instant, from the Duke of Newcastle instructing the governor of the cape to restore the Tuscaloosa to the lieutenant of the Confederate States who lately commanded her, or, if he should have left the cape, then to hand her over to some person who may have authority from Captain Semmes, or from the government of the Confederate States, to receive her.	241
	Sir F. Rogers to Mr. Hammond.	Mar. 11	Inclosing a further dispatch from the Duke of Newcastle to the governor of the cape, stating that the instructions of the 4th instant were not founded on any general principle respecting the treatment of prizes captured by either belligerents, but on the peculiar circumstances of the case. The Tuscaloosa having been allowed to enter and depart, the captain of the Alabama was thus entitled to assume that he might bring her into the same harbor a second time. It is not necessary to discuss whether she retained the character of a prize or whether she lost that character and assumed that of an armed tender to the Alabama. Her Majesty's government have come to the conclusion that the Tuscaloosa, under the circumstances, ought to	242

GENERAL APPENDIX No. X—Continued.

No.	From whom and to whom.	Date.	Subject.	Page.
		1864.	be released. The captain of the Alabama should be informed, however, that the ships of war of the belligerents are not to be allowed to bring prizes into British ports, and that her Majesty's government must decide for itself to what vessels that character belongs.	

GENERAL APPENDIX No. XI.

Case of the British steamer Sunbeam.

	Mr. Stuart to Mr. Seward.	1862. Nov. 1	Transmitting protest of the master, mate, and engineer of the Sunbeam, a British steamer, captured by United States cruisers off Wilmington, showing that the Sunbeam, having met with considerable damage, was obliged to make the nearest port. Mr. Stuart states that as the United States refuse to restore captured vessels until after adjudication, he will not apply for the restitution of the vessel, but calls attention to the fact that she was unnecessarily fired into at point-blank range while stationary by the State of Georgia, and that although a great portion of her stores had been lost in a hurricane, no fresh supplies were placed on board for the master and remaining members of the crew.	243
	Mr. Seward to Mr. Stuart.	Nov. 3	Acknowledging the receipt of above note, and states that the Secretary of the Navy has been requested to institute an inquiry into the alleged facts.	246
	Mr. Stuart to Mr. Seward.	Nov. 9	Inclosing further protest on capture of the Sunbeam; calls attention to statement that officers of the State of Georgia endeavored to enlist a portion of the crew in the service of the United States; requests that such attempts may be prevented in future.	247
	Mr. Seward to Mr. Stuart.	Nov. 12	Acknowledges receipt of note of the 9th instant, and states that the case as presented does not seem to warrant the complaint that a pressure of any kind was made upon the seamen of the Sunbeam to enlist in the service of the United States.	248
	Mr. Seward to Lord Lyons.	Nov. 26	Inclosing report of the commander of the State of Georgia to the Secretary of the Navy, which states that the Sunbeam was captured while attempting to run the blockade; that three shots were fired at the vessel before she stopped; that she had sufficient supplies and stores on board to last a week; and that there was nothing in her condition requiring her to enter a port of safety.	249

GENERAL APPENDIX No. XI—Continued.

No.	From whom and to whom.	Date.	Subject.	Page.
	Lord Lyons to Mr. Seward.	1863. Feb. 17	He is directed to state that her Majesty's government regret the declaration contained in Mr. Seward's note of the 12th November, concerning the attempts made to enlist seamen from the Sunbeam, and regards it as being inconsistent with the obligations of a belligerent toward a neutral, and as being calculated to embarrass her Majesty's government in their endeavors to observe a strict neutrality.	251
	Mr. Seward to Lord Lyons.	Feb. 19	States that on re-examining the decision of this government he has been unable to discover that it was erroneous in view of the facts and circumstances belonging to the case as it was then stated. But it would be doing injustice to this government were he to acquiesce in the construction given to his note of the 12th November by Lord Lyons, namely: "You, then, as it appears to her Majesty's government, take up, in substance, the position that, provided no violence be used, it is perfectly competent to the United States government to induce her Majesty's subjects to act as belligerents, contrary to the laws of Great Britain, and in direct opposition to the principle of international law contended for by the United States minister at her Majesty's court in the case of the Alabama." Has no doubt that if Lord Russell should recur to his note he would discover that Mr. Seward's language had been unintentionally misconceived by him in this particular.	251
	Lord Lyons to Mr. Seward.	April 22	Her Majesty's government having carefully considered Mr. Seward's note, are unable to alter the opinion which was expressed in Mr. Stuart's note of the 17th February.	252

GENERAL APPENDIX No. XII.

Letters of Historicus relative to the Alabama correspondence, and letter of "C" on the American blockade and belligerent rights.

Mr. Vernon Harcourt.	1865. Oct. 16	The Alabama correspondence. Letter of Historicus, published in the London Times, October 18, 1865.	253
Do.....	Oct. 18	The Alabama correspondence. Letter of Historicus, published in the London Times, October 19, 1865.	255
"C." .....	.....	The American blockade and belligerent rights. Letter of "C," published in the London Daily News, October 19, 1865.	257

GENERAL APPENDIX No. XIII.

Correspondence between her Majesty's government and Messrs. Laird Brothers; and an appendix, containing the correspondence between officers of her Majesty's customs and (Inglefield, R. N., and Messrs. Laird Brothers, respecting the iron-clad vessels built at Birkenhead.

No.	From whom and to whom.	Date.	Subject.
		1863.	
	Laird Brothers to Mr. Edwards.	Sept. 4	Stating that a week's notice will be given to the collector of customs of their intention to deliver the rams to the owners. The first vessel will not be ready for a month and the second for six or seven weeks.
	Mr. Edwards to Laird Brothers.	Sept. 5	Acknowledges the receipt of the note of the 4th, and states the promise given will be satisfactory to the board of customs.
	Mr. Layard to Laird Brothers.	Sept. 4	Desires to be informed on whose account and with what destination, the iron-clad vessels have been built.
	Laird Brothers to Mr. Layard.	Sept. 5	States that the rams are intended for A. B. Bravay & Co., of Paris, and that they are to be delivered in the port of Liverpool.
	Laird Brothers to Mr. Edwards.	Sept. 8	Stating that it is the intention to take one of the rams from their graving-dock for a trial trip within the usual limits, and that the dependence may be placed in the return of the vessel into the Birkenhead float.
	Mr. Hamilton to Laird Brothers.	Sept. 9	Orders have been issued preventing the rams from leaving the Mersey until satisfactory evidence can be furnished of their destination.
	Mr. Edwards to Laird Brothers.	Sept. 11	There can be no trial trip of the iron-clad ship until Earl Russell can be heard from.
	Laird Brothers to Mr. Hamilton.	Sept. 10	States that his letter of the 9th has been forwarded to Messrs. A. Bravay & Co. of Paris, on whose account the vessels are being built. Refers Mr. Hamilton to them for further information.
	Mr. Edwards to Laird Brothers.	Sept. 14	Permission given to try the iron-clad vessel provided she be returned.
	Do.....	Sept. 17	Permission given for the trial of the iron-clad ship provided that she be brought back to Liverpool, and not leave that port without a week's notice of the intention to send her away.
	Laird Brothers to Mr. Edwards.	Sept. 18	Agreeing to the conditions imposed concerning the trial trip of the iron-clad vessel.
	Mr. Brand to Laird Brothers.	Sept. 19	In view of the fact that an attempt was made to seize the iron-clad ship while on her trial trip, it has been deemed expedient to place on board a sufficient force of seamen and marines to defeat any attempt to seize her. If this should not be satisfactory, instructions will be given to the vessel.
	Laird Brothers to Mr. Brand.	Sept. 20	Receipt of the above letter; will answer to-morrow.
	Do.....	Sept. 21	While unaware of any project to seize the iron-clad ship on her trial trip, they avail themselves of the offer of permission made by the government. The trial trip will be deferred for some days.
	Mr. Hamilton to Laird Brothers.	Oct. 7	Instructions have been given to place on board the vessel a custom-house

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GENERAL APPENDIX No. XIII—Continued.

No.	From whom and to whom.	Date.	Subject.	Page.
Tel.	Assistant secretary of the treasury to Laird Brothers.	1863. Oct. 29	The orders have been well considered and cannot be revoked or altered. Every precaution will be taken for the preservation of the property.	267
	Laird Brothers to Earl Russell.	Oct. 29	Transmitting copy of telegram addressed to Earl Russell, protesting against the removal of the vessels.	267
	Laird Brothers to her Majesty's treasury.	Oct. 29	Protesting against the seizure of the iron-clad vessels, and stating that the government will be held responsible for the pecuniary loss sustained by the arbitrary proceedings.	267
	Do.....	Oct. 30	Calls attention of the government to the incomplete state of the vessels, and states that it would be dangerous to place them in the open roadstead.	268
	Mr. Hammond to Laird Brothers.	Oct. 30	The protest of Messrs. Laird has been referred to the lords commissioners of the treasury.	269
	Mr. Romaine to Laird Brothers.	Oct. 30	Messrs. Lairds' telegram of the 29th has been referred to the Foreign Office.	269
	Laird Brothers to Earl Russell.	Oct. 31	Renewing their protest against the removal of the vessels into the Mersey. They are now in security, either from forcible abduction or sea risk.	269
	Mr. Hammond to Laird Brothers.	Nov. 2	Receipt of the above, and states that it has been referred to the lords commissioners of the treasury.	269
	Mr. Hamilton to Laird Brothers.	Nov. 2	Concerning the removal of the vessels the lords commissioners of the treasury have nothing to add to their telegram of the 29th ultimo.	270
	Do.....	Nov. 3	The lords commissioners of the treasury decline to enter into any discussion of the subject of the removal of the vessels before the investigation which the case will receive in the courts.	270
Tel.	Laird Brothers to Earl Russell.	Dec. 7	Call attention to the present condition of the vessels, and desire to know whether the necessary precautions have been taken for their security against the weather, and if the government will renew the insurance which is about to expire.	270
	Mr. Hamilton to Laird Brothers.	Dec. 10	States that Messrs. Lairds' letter of the 7th will receive attention.	271
	Mr. Hammond to Laird Brothers.	Dec. 11	Messrs. Lairds' letter of the 7th has been referred to the treasury.	271
	Mr. Paget to Laird Brothers.	Dec. 12	Acknowledging the receipt of their letter of the 7th.	271
	Mr. Hamilton to Laird Brothers.	Dec. 18	States that the government will continue the insurance on the vessels, and that every precaution will be taken for preserving them from injury by weather.	271
	Laird Brothers to Mr. Hamilton.	Dec. 21	Acknowledging the receipt of his letter of the 18th, and will reply to it to-morrow.	272
	Do.....	Dec. 22	The vessels should be insured, and kept insured, at the public cost, without any condition being imposed on them.	272
	Do.....	Dec. 30	Requesting an early reply to their letter of the 22d.	272

GENERAL APPENDIX No. XIII—Continued.

No.	From whom and to whom.	Date.	Subject.	Page.
		1864.		
	Laird Brothers to Mr. Hamilton.	Jan. 9	Again requesting a reply to their letter of the 22d December.	272
	Do	Jan. 12	In view of the exposed position in which vessels now are, they propose that they be moved into the Birkenhead public docks, the government to retain possession by an armed force. This would afford an opportunity to complete the vessels.	273
	Mr. Hamilton to Laird Brothers.	Jan. 14	The lords commissioners of the treasury are unable to comply with the request contained in Messrs. Laird's letter of the 12th.	273
	Do	Jan. 20	The lords commissioners of the treasury will provide in the manner they may consider requisite against the risk from fire and other damages to the vessels while in their possession.	273
	Laird Brothers to Mr. Hamilton.	Jan. 25	Requesting that the decision of the lords commissioners of the treasury, contained in their letter of the 20th, be changed, and calling attention to the fact that no steps have been taken to bring the matter to a legal decision, although the law officers have been repeatedly pressed to that course.	274
	Mr. Hamilton to Laird Brothers.	Feb. 2	The lords commissioners of the treasury cannot permit the vessels to be completed.	274
	Laird Brothers to Mr. Hamilton.	Feb. 3	Requesting to be informed as to the time when the government proposes to bring the case of the vessel to trial, and complaining of the delay as an act of injustice to themselves and to the owners of the ships.	274
	Mr. Hamilton to Laird Brothers.	Feb. 8	States that an "information" will be filed in a few days, and that it may be necessary to send a commission aboard for the purpose of collecting evidence.	275
		1863.	APPENDIX.	
	Mr. Stewart to Laird Brothers.	Oct. 8	Incloses letter from the lords commissioners of the treasury directing him to place a customs officer on board the nearest completed iron-clad, and to seize her in case an attempt be made to remove "from where she is at present."	275
	Laird Brothers to Mr. Stewart.	Oct. 8	Has given the surveyor of customs an order of admission to the iron-clad.	275
	Do	Oct. 8	Calls attention to a difference of phraseology between Mr. Stewart's letter and that of the treasury, and suggests that instructions should only apply to a removal of the vessel from the dock or float.	275
	Mr. Stewart to Laird Brothers.	Oct. 8	Thanks for the facility afforded to customs officer to visit the iron-clad.	276
	Do	Oct. 9	The phraseology used in his letter of the 8th was intended to be synonymous with the terms used in the order of the treasury.	276
	Mr. Morgan to Laird Brothers.	Oct. 9	Gives notice that he has this day seized the iron-clad now lying in their dock by order of the commissioners of customs.	276

No.	From whom and to whom.	Date.	Subject.	Page.
		1863.		
	Mr. Morgan to Laird Brothers.	Oct. 9	States that he has this day seized the iron-clad now lying in the great float, Birkenhead.	276
	Laird Brothers to Capt. Inglefield.	Oct. 12	Will give notice of the intention to lift the caisson at the entrance of the graving-dock, in order that steps may be taken to protect their property from the attempt apprehended by the government.	277
	Capt. Inglefield to Laird Brothers.	Oct. 14	Expressing thanks for the proposal that the keys whereby the sluices are worked will be placed under their personal care, and requesting that at least twenty-four hours' notice will be given of their intention to float the caisson.	277
	Laird Brothers to Capt. Inglefield.	Oct. 14	States that the keys of the sluices will be left with the superintendent of docks, and placed in security, and that not less than twenty-four hours' notice will be given of their intention to float the caisson.	277
	Do	Oct. 19	States that on Thursday and Saturday their dock will be open, and that on Saturday the iron-clad will be removed, but will again be returned to the dock.	278
	Capt. Inglefield to Laird Brothers.	Oct. 20	Acknowledging the receipt of the above note.	278
	Laird Brothers to Capt. Inglefield.	Oct. 22	They are under the necessity to open the dock again to-morrow.	278
	Do	Oct. 24	Owing to the fog they will not open the dock until Monday.	279
	Capt. Inglefield to Laird Brothers.	Oct. 26	Acknowledging the receipt of the above note.	279
	Mr. Morgan to Laird Brothers.	Oct. 28	Requesting the address of Mr. Bravay	279
	Laird Brothers to Mr. Morgan.	Oct. 28	Transmitting Mr. Bravay's address	279
	Capt. Inglefield to Laird Brothers.	Oct. 28	Requesting the delivery of the two iron-clad vessels, in accordance with the instructions of the lords commissioners of the admiralty.	279
	Laird Brothers to Capt. Inglefield.	Oct. 28	Desiring that Captain Inglefield should put in writing the oral request made for assistance in preparing one of the iron-clads for removal.	279
	Capt. Inglefield to Laird Brothers.	Oct. 28	Formally requesting assistance in preparing the iron-clad for removal.	280
	Laird Brothers to Capt. Inglefield.	Oct. 29	Protesting against the seizure of the vessels and the probable destruction of their property by removing the ship from the docks in an incomplete state. Trusting that the government will reconsider the orders.	280
	Do	Oct. 29	Refusing to assist in the preparation for the removal of the vessels, and again protesting against the order of the government.	280
	Capt. Inglefield to Laird Brothers.	Oct. 28	Intention to send an officer to make a survey and inventory of one of the iron-clads.	281
	Do	Oct. 30	Postponement of the removal of the iron-clad El Monnassir until to-morrow.	281
	Laird Brothers to Capt. Inglefield.	Oct. 31	Owing to the lowness of the neap tides during the next week they decline to float the caisson at the entrance of the dock.	281

GENERAL APPENDIX No. XIII—Continued.

No.	From whom and to whom.	Date.	Subject.	Page.
	Capt. Inglefield to Laird Brothers.	1863. Nov. 3	States that the El Tousson has been removed from the great float, and requests that dock dues be refunded by the Laird Brothers, which he caused to be deposited with the dock committee, under protest.	281

GENERAL APPENDIX No. XIV.

Recognition of rebel belligerency, as shown in the cases of the Chesapeake, the Joseph L. Garaty, and the Roanoke.

THE CHESAPEAKE.				
	Lord Lyons to Earl Russell.	1863. Dec. 11	Incloses extract from the New York Herald, containing intelligence of the seizure of the Chesapeake by a party of men who embarked as passengers at New York. He has not received any communication from the United States government on the subject.	283
	Lord Lyons to Mr. Seward.	Dec. 12	Has received a telegram from Nova Scotia stating that the Chesapeake has not put into any port in that colony.	283
	Mr. Seward to Lord Lyons.	Dec. 12	Requests that Lord Lyons telegraph to New Brunswick, as the Chesapeake may have put into one of the ports of that province.	283
	Lord Lyons to Earl Russell.	Dec. 15	Interview with Mr. Seward concerning the seizure of the Chesapeake. At Mr. Seward's request he telegraphed to the authorities at Nova Scotia and New Brunswick to take all necessary steps to prevent the escape of the vessel in the event of her entering any of the ports of those provinces.	284
	Mr. Seward to Lord Lyons.	Dec. 16	States that authentic information has been received that Brains and Parr—two of the persons connected with the seizure of the Chesapeake—have taken refuge either in Nova Scotia or New Brunswick, and request that her Majesty's authorities will detain them until the legal evidence can be produced for their extradition.	284
	Lord Lyons to Mr. Seward.	Dec. 16	Incloses telegram sent to the authorities of Nova Scotia, in accordance with the request contained in Mr. Seward's note of the 16th instant.	284
786	Mr. Seward to Mr. Adams.	Dec. 17	The seizure of the Chesapeake, and the use of British colonial ports as a base of piratical operations, ought to indicate to Great Britain that its premature toleration of the anomalous belligerent is engendering a border war, which would be a dangerous sequel to our unhappy insurrection. If the states of Northern Europe are to become a theater of civil war in Denmark, with the intervention of foreign states, according to their sympathies or dynastic interests, it will become important to know by what code of neutrality our own conduct is to be regulated—whether the one	285

GENERAL APPENDIX No. XIV—Continued.

No.	From whom and to whom.	Date.	Subject.	Page.
		1863.		
	Mr. Seward to Lord Lyons.	Dec. 18	we have set up, or the one that has been adopted by Great Britain and France, in regard to the United States. Gives a detailed account of the piratical seizure of the Chesapeake, and in regard to her capture in Sombro Harbor, Nova Scotia, by the United States ships, Ella and Annie; states that he is directed by the President to inform Lord Lyons that the United States did not authorize—nor does it propose to justify—any exercise of authority, by its agents, within the waters or on the soil of Nova Scotia; and, if any such authority has been assumed, the United States stands ready to make amends. As to the disposition of the Chesapeake and the men found on her, the United States will, if required, place them at once in the custody of the authorities at Halifax—in that case a demand that the vessel be restored to its owners would be made. Such proceedings would be dilatory and somewhat embarrassing to the authorities at Halifax. Mr. Seward suggests as a better measure, if agreeable to the authorities at Halifax, that the Chesapeake and the pirates be retained in the possession of the United States naval authorities, and brought back to the United States, and kept there until the wishes of her Majesty's government shall be expressed, and, if they shall require it, they will be given up to the care of the British authorities—the United States reserving the right to make legal requisition in the case.	285
	Lord Lyons to Mr. Seward.	Dec. 18	Expresses satisfaction at the disavowal by Mr. Seward of any assumption of authority by officers of the United States within the jurisdiction of her Majesty's province of Nova Scotia, and states he will lose no time in communicating the suggestions of Mr. Seward to the authorities of that province.	286
788	Mr. Seward to Mr. Adams.	Dec. 19	Incloses correspondence with the British legation in the case of the Chesapeake, and states that it is very desirable that her Majesty's government should cause a surrender of the criminals. It would avert embarrassments, and prevent border jealousies—a class of trouble always to be deprecated.	286
	Mr. Seward to Lord Lyons.	Dec. 20	Requesting the extradition of John C. Braine and others, charged with piracy and murder on the Chesapeake, and who have taken refuge in New Brunswick or Nova Scotia.	287
	Lord Lyons to Earl Russell.	Dec. 21	Incloses further correspondence concerning the case of the Chesapeake. Has deemed it right to be content with the assurance contained in Mr. Seward's note of the 18th until he shall have received fuller information of what has occurred in Nova	287

GENERAL APPENDIX No. XIV—Continued.

No.	From whom and to whom.	Date.	Subject.	Page.
		1863.		
	General Doyle to the Duke of Newcastle.	Dec. 23	<p>Scotia, and shall have been made acquainted with the views of the authorities of that province. His letter to Major General Doyle containing Mr. Seward's assurances is also appended.</p> <p>Reports in detail the principal circumstances connected with the case of the Chesapeake, and the correspondence which has taken place in relation to it, and states, in view of violation of neutral rights committed in the capture of the Chesapeake and the making of prisoners, not only in a British port but on board of a British vessel, rendered it imperative that a demand should be made for the unconditional surrender of the steamer and the prisoners taken, and that it was equally necessary that Braine should be discharged from custody before any warrant for his extradition could be served. His escape from subsequent apprehension could not have been anticipated, as the place where the rendition occurred was most unfavorable for such escape.</p>	288
	Lord Lyons to Earl Russell.	Dec. 24	Incloses, first, Mr. Seward's note requesting the extradition of John C. Braine and others; second, his note to the authorities of Nova Scotia and New Brunswick transmitting Mr. Seward's note making the demand; and, third, a paper which Mr. Seward placed in his hands, said to be a decipher of a letter from a confederate agent at New York to Mr. Benjamin, going to show that there were plots to seize two other steamers, and to make use of British territory to further the nefarious designs of the rebels.	295
	General Doyle to the Duke of Newcastle.	Dec. 24	Incloses his dispatch to Lord Lyons, which explains the action of the colonial government in relation to the Chesapeake, and in which he states that, as at present advised, the vessel cannot be delivered to her owners, except upon an order from the court of vice-admiralty, and he presumes that it would be competent for that court to so surrender her, upon the owners giving bail to abide by the decisions of the court.	296
	Lord Lyons to Earl Russell.	Dec. 29	Transmits Major General Doyle's dispatch to him of the 23d. Lord Lyons states that he was not prepared to learn that the violation of territorial rights by United States naval officers had been so flagrant as General Doyle's dispatch shows. Mr. Seward is now absent. The prisoners taken by the United States officers have been given up, and the Chesapeake has been handed over to the authorities of Nova Scotia. The question which now remains is the nature and extent of the reparation due from the United States for the wrong committed by its officers. Lord	297

GENERAL APPENDIX No. XIV—Continued.

No.	From whom and to whom.	Date.	Subject.	Page.
		1863.		
	Lord Lyons to Earl Russell.	Dec. 31	Lyons considers it prudent—and that it is due to Mr. Seward—that the subject should be discussed in a friendly and confidential manner before taking any further steps with regard to it. Interview with Mr. Seward. Lord Lyons explained to him that the events which had really occurred had caused him considerable anxiety and distress; but that, bearing in mind the assurances given in Mr. Seward's note of the 18th, he had determined to wait, in order to discuss the matter with him in a friendly and confidential manner. Mr. Seward said the subject was a painful one. The spirit shown by the people of Halifax in rescuing one of the pirates, and the fact that a large number of rifles had been sent by confederate agents to Nova Scotia, rendered it necessary for the United States to consider whether it would not be necessary to adopt extraordinary precautions with respect to intercourse with that colony. He could not state what course would be taken until he had made himself acquainted with all the facts. Lord Lyons could state, however, with confidence to his government, that the assurances given by the President would be acted up to.	297
	Lieutenant Governor Gordon to the Duke of Newcastle.	1864. Jan. 1	States that upon the requisition of the United States consul at St. John, he has issued his warrant of arrest for three of the persons engaged in the seizure of the Chesapeake. The warrant of arrest is appended.	298
	Lord Lyons to Earl Russell.	Jan. 4	Encloses further correspondence with Mr. Seward and with the authorities of Nova Scotia and New Brunswick concerning the extradition of the persons charged with the seizure of the Chesapeake.	302
	Lord Lyons to Mr. Seward.	Jan. 4	Informes Mr. Seward that the lieutenant governor of New Brunswick has issued his warrant for the apprehension of the persons charged with the seizure of the Chesapeake, and that every exertion will be made to insure their arrest should they be found within his jurisdiction.	303
	Mr. Seward to Lord Lyons.	Jan. 5	Expresses thanks for the action of the authorities of New Brunswick.	304
805	Mr. Seward to Mr. Adams.	Jan. 7	Information having been received that the authorities at Halifax have decided to require proceedings in admiralty on behalf of the owners of the Chesapeake, in order that they may obtain restitution of the vessel, Mr. Adams is instructed to protest against that decision. It was thought that as the seizure was a flagrant act of piracy she would have been restored without requiring the illegality of the seizure to be judicially proved.	304
807	.....do	Jan. 11	The investigation in the case of the Chesa-	304

GENERAL APPENDIX No. XIV—Continued.

No.	From whom and to whom.	Date.	Subject.	Page.
		1864.	peake has yielded these results, viz: that the crimes committed in her capture were contrived and prepared within the provinces of Nova Scotia and New Brunswick; that the merchandise which constituted her freight was sold by the pirates to British subjects; that although the pirates took refuge within British jurisdiction, no process was issued for their arrest, except on the application of the government of the United States; and that when three of them were arrested and secured by agents of the United States, their arrest by British authorities was prevented by a mob of the citizens of Halifax. The President believes that her Majesty's government will disapprove of these illegal proceedings and order restitution in the premises. He thinks the occasion a fitting one to call the attention of the British government to the fact, that while it has proclaimed neutrality in regard to the civil war, the insurgents are receiving aid from British subjects, and that hostilities are carried on against the United States by British subjects from British provincial ports.	
	Mr. Seward to Lord Lyons.	Jan. 13	As it is possible that John C. Braine, and others who were concerned in the capture of the Chesapeake, may have taken refuge in Canada, he requests that the necessary steps be taken by the Canadian authorities for their extradition.	305
	Lord Lyons to Mr. Seward.	Jan. 16	Incloses dispatch from Major General Doyle, administrator of the government of Nova Scotia, which shows the action of the authorities of that province in regard to the Chesapeake. Every precaution has been taken for the safety of the vessel; that all goods found, which were taken from the vessel and sold by the pirates, have been placed in warehouse, and will remain there until the decision of the court; that efforts have been taken to effect the arrest of John C. Braine; and that the parties accused of having prevented the arrest of Wade have been summoned before the proper authorities with a view to requiring bonds for their appearance to answer the charge before the supreme court.	305
	Mr. Seward to Lord Lyons.	Jan. 18	Receipt of Lord Lyons's note of the 16th. It appears to the President that the authorities of Nova Scotia ought to have relinquished to the agents of the United States the stolen vessel and the pirates found on board, subject to any claim the British government might have either upon the ship or the men. The delays which have resulted from the opposite course may encourage new crimes against the peace of both countries. Will await the ter-	307

GENERAL APPENDIX No. XIV—Continued.

No.	From whom and to whom.	Date.	Subject.	Page.
		1864.	mination of proceedings with interest, and no adverse decision can modify the claim of the owners of the vessel and cargo which the United States government have presented.	
	Lieutenant Governor Gordon to the Duke of Newcastle.	Jan. 18	Encloses report of examination before police magistrate, St. John, of persons accused of seizing the Chesapeake. States that he has information that in the event of the conviction of the accused attempts will be made to rescue them. He will take steps to prevent such proceedings.	307
584	Mr. Adams to Mr. Seward.	Jan. 28	The latest intelligence in the case of the Chesapeake has led him to suppose that the decision in the case has been as favorable as could be desired; he has therefore concluded to defer action under Mr. Seward's instructions of the 7th and 11th January until the actual facts are ascertained.	319
	Lord Lyons to Mr. Seward.	Jan. 30	States that no time was lost in transmitting Mr. Seward's note of the 13th concerning the extradition of John C. Braine and others. The governor general of Canada says that he has no reason to suppose that any of the parties have taken refuge in Canada.	320
	Lord Lyons to Earl Russell.	Feb. 1	Transmits Mr. Seward's note to him of the 18th January, and states that Mr. Seward in his note seems to forget the violation of her Majesty's territorial jurisdiction committed by United States officers. Lord Lyons states that the two men who were seized were British subjects, who had gone on board after the arrival of the Chesapeake at Nova Scotia, and who had no connection with her seizure. The only man taken who was implicated was Wade, and he was captured by United States officers on board a British ship, in a British harbor. Has communicated Mr. Seward's note to Major General Doyle. The other inclosures relate to the demands on the governments of Canada and New Brunswick for the extradition of men concerned in the seizure of the Chesapeake.	320
	Lieutenant Governor Gordon to the Duke of Newcastle.	Feb. 1	Transmits report of the evidence adduced in the case of the Chesapeake. States that the investigation commenced before the police magistrate, on the 28th December, is still unconcluded.	322
	Major General Doyle to the Duke of Newcastle.	Feb. 4	Incloses report of the advocate general of the court of vice-admiralty on certain proceedings which have transpired in that court with reference to the Chesapeake.	324
	Lieutenant Governor Gordon to the Duke of Newcastle.	Feb. 15	Transmits report of proceedings before the police magistrate at St. John which have taken place since his dispatch of the 1st.	325
	Major General Doyle to the Duke of Newcastle.	Feb. 18	Transmits report of proceedings in the vice-admiralty court of Halifax which have taken place since the case of the Chesapeake was before the court.	326

GENERAL APPENDIX No. XIV—Continued.

No.	From whom and to whom.	Date.	Subject.	Page.
552	Mr. Seward to Mr. Adams.	1864. Feb. 24	Incloses decision of the vice-admiralty court of Nova Scotia, which directs the delivery of the Chesapeake and her cargo to the owners, upon payment of costs. He has directed the owners to pay the costs under protest. United States still adheres to the opinion that it was its right to have an unconditional restitution of the vessel and her cargo by executive authority without waiting for an adjudication; nevertheless it accepts the restitution in the form in which it has been adjudged and leaves further claim for future consideration. Is satisfied with the manner in which the proceedings have been conducted.	338
	Lord Lyons to Earl Russell.	Feb. 29	Transmits copy of Mr. Seward's dispatch to United States consul at Halifax, which states that while the United States government still adheres to the opinion that the delivery of the Chesapeake ought to have been made unconditionally by executive authority, it is gratified with friendly proceedings of the governor of Nova Scotia, and appreciates the impartial spirit by which the vice-admiralty court has been guided.	339
	Earl Russell to Lord Lyons.	Mar. 11	Acknowledges Lord Lyons's dispatch of February 1. As the case seems to be disposed of by the court, there is no necessity for dwelling on the views of Mr. Seward. Mr. Seward can hardly be ignorant that so far as the extradition of the men is concerned it would have been improper to proceed otherwise than according to law.	340
	The Duke of Newcastle to Major General Doyle.	Mar. 12	Approving his proceeding in the case of the Chesapeake.	340
	The Duke of Newcastle to Lieuten't Governor Gordon.	Mar. 12	Approving his proceeding in the case of the Chesapeake.	340
	Mr. Seward to Lord Lyons.	Mar. 21	States that the reasons for the release on a writ of <i>habeas corpus</i> of the parties who were arrested for complicity in the seizure of the Chesapeake, seems to be erroneous and inconclusive, and at variance with the treaty of Washington, and hopes that the proceedings may not be final.	341
	Mr. Seward to Mr. Burnley.	1865. Jan. 23	Information having been received that four or five of the pirates who captured the Chesapeake had returned to New Brunswick, Mr. Seward requests that the necessary warrants be issued for their extradition.	341
	Mr. Burnley to Mr. Seward.	Jan. 25	States that the attention of the proper authorities will be called to his note of the 23d.	341
	Do.	Feb. 15	Incloses dispatch from lieutenant governor of New Brunswick, which states that no efforts will be spared to secure the immediate arrest of the parties.	342

GENERAL APPENDIX No. XIV—Continued.

No.	From whom and to whom.	Date.	Subject.	Page.
		1865.		
	Mr. Burnley to Mr. Seward.	Feb. 17	States that Linus Seely, one of the Chesapeake captors, has been arrested at St. John.	344
	Mr. Seward to Mr. Burnley.	Feb. 18	Requesting that the thanks of the government be conveyed to the lieutenant governor of New Brunswick for the zeal manifested by him in adopting measures for the arrest of Braine.	344
	Mr. Burnley to Mr. Seward.	Feb. 20	Has telegraphed the authorities of New Brunswick relative to the detention of Seely. Suggests that the machinery of the law on this side be put in motion.	344
	Mr. Seward to Mr. Burnley.	Feb. 23	States that the necessary measures have been taken to meet the requirements of the provincial law.	345
	Mr. Burnley to Mr. Seward.	Feb. 25	Incloses dispatch from Mr. Gordon showing the steps taken by the authorities of New Brunswick to secure the apprehension of the captors of the Chesapeake.	345
	Mr. Seward to Mr. Burnley.	Mar. 3	States that the diligence and friendly action of the authorities of New Brunswick are highly appreciated.	346
	Do	Mar. 6	Requesting the extradition of Vernon G. Locke, charged with piracy on board the Chesapeake.	346
	Do	Mar. 7	In view of the proceedings heretofore adopted in similar cases, it is expected by the United States government that Seely should be surrendered, or a fair trial should be had in New Brunswick, if the surrender is declined.	346
	Mr. Burnley to Mr. Seward.	Mar. 9	The lieutenant governor of New Brunswick will do what he can, either to surrender the criminal or to bring him to trial in the province. In view, however, of the ruling of the courts, Mr. Burnley is inclined to think that if Seely is committed, it will not be for extradition, but for trial in New Brunswick.	346
	Mr. Seward to Mr. Burnley.	Mar. 13	The government of the United States does not assent to the construction of the extradition treaty which the colonial judges have adopted.	347
	Mr. Burnley to Mr. Hunter.	April 18	Incloses dispatch from Governor Rawson, requesting the United States to supply such evidence of the nature and circumstances of the alleged crime, of the identity of Locke, and of his participation in said crime, as will satisfy the requirements of the colonial laws.	347
	Mr. Hunter to Sir F. Bruce.	April 24	Waiving a consideration of the question whether the delivery of Locke could be claimed pending his trial, Mr. Hunter states that the United States consul at Nassau has been furnished with such documents as it is believed will fill the requirements of the treaty and the laws in force in the Bahamas.	348
	Do	April 25	Requesting the authentication of the British legation to certificate of Department of State attached to certain papers relating to the extradition of Vernon G. Locke.	348

GENERAL APPENDIX No. XIV—Continued.

No.	From whom and to whom.	Date.	Subject.	Page.
967	Mr. Adams to Mr. Hunter.	1865. May 25	Incloses note from Earl Russell which states that it appears to her Majesty's government that the United States are not entitled to the extradition of Locke until he shall have been tried for the offenses committed against British law, and if convicted shall have undergone any sentence which may be passed upon him. Her Majesty's government, however, will waive their right to prosecute Locke, if the evidence upon the charge of seizing the Chesapeake shall prove sufficient to justify extradition.	349
1481	Mr. Seward to Mr. Adams.	July 20	Calls attention to the fact that John C. Braine, who was connected with the seizure of the Chesapeake, has again made his appearance at Kingston, Jamaica, having arrived there in the St. Mary's, a vessel captured by him in Chesapeake Bay, and requests that a representation of the case be made to the British government, and at the same time demands the restoration of the vessel to its owners.	350
1039	Mr. Adams to Mr. Seward.	Sept. 7	Incloses his note to Earl Russell making a demand for the restoration of the St. Mary's. Earl Russell's acknowledgment is also appended.	350
THE JOSEPH L. GARATY.				
100	Mr. Leas to Mr. F. W. Seward.	1863. Dec. 17	Gives an account of his proceedings and those of the colonial authorities at Belize concerning the Joseph L. Garaty, an American vessel captured by her passengers while on a voyage from Matamoros to Havana. The flag of the insurgents having been hoisted, and her name changed to the Eureka, she went to Belize and disposed of her cargo.	351
	Mr. Seward to Lord Lyons.	1864. Jan. 16.	States that as the persons concerned in the capture of the Joseph L. Garaty have probably escaped beyond the jurisdiction of the authorities of Belize, and that, if they should hereafter be found there, or in any other part of her Majesty's dominions, their delivery to the United States will be expected, the restitution of the vessel will also be expected.	357
	Lord Lyons to Mr. Seward.	Jan. 18	Lord Lyons will lose no time in forwarding Mr. Seward's note of the 16th instant to his government.	358
273	Mr. F. W. Seward to Mr. Dudley.	Jan. 18	Incloses letter from United States district attorney for New York, which gives a description of the parties who captured the Joseph L. Garaty, and states that they have taken passage in the Carlos, bound for Liverpool. Mr. Seward directs Mr. Dudley to adopt measures for their extradition, and also to inform Mr. Adams of the circumstances of the case and act under his instructions.	358

GENERAL APPENDIX No. XIV—Continued.

No.	From whom and to whom.	Date.	Subject.	Page.
601	Mr. Adams to Mr. Seward.	1864. Feb. 18	States that Mr. Dudley had forwarded to him copy of Mr. F. W. Seward's dispatch of the 18th ultimo. Mr. Adams had previously concluded, on the strength of a deposition made by the captain of the Joseph L. Garaty, to apply for a warrant to arrest the parties concerned in the seizure of the vessel.	359
232	Mr. Dudley to Mr. Seward.	Feb. 19	States that Mr. Seward's instruction of the 18th ultimo had been anticipated. Inclose deposition of Captain Nicholas.	359
235	.....do	Feb. 27	Announces the arrest by the police of three of the parties concerned in the capture of the Joseph L. Garaty. Incloses report of the proceedings before the stipendiary magistrate.	362
239	.....do	Mar. 4	Incloses phonographic report of the proceedings before the police court, Liverpool. There is no evidence adduced in the trial that the prisoners were acting under confederate authority, and consequently it is a clear case of piracy.	362
243	.....do	Mar. 11	The prisoners remanded until next week by Mr. Raffles, to give them an opportunity to produce evidence in proof of their statement that they were acting under confederate authority.	363
876	Mr. Seward to Mr. Adams.	Mar. 14	Acknowledging Mr. Adams's No. 601, and approving his proceedings.	363
625	Mr. Adams to Mr. Seward.	Mar. 18	The proceedings at Liverpool in the case of the pirates of the Joseph L. Garaty are very slow. The magistrate has repeatedly postponed a decision for the purpose of giving the parties time to show some authority for their acts.	363
246	Mr. Dudley to Mr. Seward.	Mar. 19	Adjournment of the case of the pirates of the Joseph L. Garaty to enable the prisoners to sue out a writ of habeas corpus.	363
878	Mr. Seward to Mr. Adams.	Mar. 21	Trusts that Mr. Adams is doing all that can be done to secure a surrender of the pirates of the Joseph L. Garaty.	365
248	Mr. Dudley to Mr. Seward.	Mar. 23	Incloses report of proceedings before the police court at Liverpool on March 19. The case, as it now appears, is to be taken to London.	365
896	Mr. Seward to Mr. Adams.	April 4	The delay exhibited in the case of the pirates of the Joseph L. Garaty is regarded by the President with surprise and anxiety. The persons engaged in the capture of the Chesapeake have been set free. It is to be hoped that the action of the home judiciary in the case of the pirates of the Joseph L. Garaty may not be found as objectionable and injurious as that of the authorities of New Brunswick in the case of the Chesapeake.	365
900	.....do	April 5	Mr. Dudley has stated that the case of the extradition of the pirates who captured the Joseph L. Garaty is to be removed to London. Instructions in regard to the questions involved in that case, as also	366

GENERAL APPENDIX No. XIV—Continued.

No.	From whom and to whom.	Date.	Subject.	Page.
		1864.		
643	Mr. Adams to Mr. Seward.	April 8	that of the pirates of the Chesapeake, will probably be forwarded next steamer. Incloses his note to Lord Russell, which is accompanied by two notes from Mr. Dudley, concerning the delay in the case of the pirates of the Joseph L. Garaty. Mr. Adams informs Lord Russell that the action of the magistrate has a tendency to annul the treaty stipulations in the present case, and presents the grave consequences which would follow if the example set by Great Britain were followed by the United States. Lord Russell's acknowledgment is also appended.	366
657	.....do	April 14	Incloses Lord Russell's note of the 8th instant. The postponements in the trial of the pirates of the Joseph L. Garaty are made under authority from the government. Mr. Adams thinks that proper commissions from Richmond will be made and forwarded in season to effect their release.	368
	Lord Lyons to Mr. Seward.	April 22	Informes Mr. Seward that the Joseph L. Garaty has been made over to the commercial agent of United States at Belize by the colonial authorities there.	368
672	Mr. Adams to Mr. Seward.	April 28	Incloses report of proceedings in the case of the pirates of the Joseph L. Garaty before the Court of Queen's Bench, April 25.	369
932	Mr. Seward to Mr. Adams.	May 3	Receipt of Mr. Adams's No. 657. The United States has quite clear convictions of its rights under the extradition treaty. These views will be submitted without considerable delay.	369
	Mr. Seward to Lord Lyons.	May 5	Expresses thanks for the information contained in Lord Lyons's note of the 22d ultimo.	370
276	Mr. Dudley to Mr. Seward.	May 11	Incloses report of proceedings in the case of the pirates of the Joseph L. Garaty before the Court of Queen's Bench, May 9, and comments upon them.	370
665	Mr. Adams to Mr. Seward.	May 12	Incloses report of proceedings before the Court of Queen's Bench of May 9. The decision of the questions involved in the case must have an important bearing on the efficacy of the provision of the extradition treaty hereafter.	371
286	Mr. Dudley to Mr. Seward.	May 25	Has received a telegram from Mr. Squarey, which states that the court in the piracy case is divided. Chief Justice in our favor; the other three judges against us, on ground that piracy means piracy, exclusively triable in America. Prisoners ordered to be discharged.	371
700	Mr. Adams to Mr. Seward.	May 26	Incloses report of final proceedings in the Court of Queen's Bench on the application for the rendition of the pirates of the Joseph L. Garaty. The result turns upon technical construction of language rather than on broad principles.	371
287	Mr. Dudley to Mr. Seward.	May 27	Incloses report of proceedings before the Court of Queen's Bench, on May 24 and	371

GENERAL APPENDIX No. XIV—Continued.

No.	From whom and to whom.	Date.	Subject.	Page.
		1864.		
299	Mr. Dudley to Mr. Seward.	June 16	25, in the case of the pirates of the Joseph L. Garaty. Incloses short-hand reporter's notes of the judgment of the Court of Queen's Bench in the case of the pirates of the Joseph L. Garaty.	372
	Appendix.....	.....	Proceedings before the police court at Liverpool on the application for the rendition to the United States of the pirates who seized the Joseph L. Garaty.	372
	Do.....	.....	Proceedings before the Court of Queen's Bench in the case of the pirates of the Joseph L. Garaty.	381
	Lieutenant Governor Hamley to Mr. Cardwell.	Oct. 28	THE ROANOKE. Incloses report by the attorney general of Bermuda of the proceedings taken by the authorities in the case of the persons who seized the Roanoke, a United States mail steamer, captured off the coast of Cuba by John C. Braine and others, who had taken passage in her at Havana, and who brought her to St. George's for provisions and coal, and who finally burned her off Bermuda. The attorney general states that the commission and the instructions from the confederate authorities, on which Braine and his comrades relied as giving to their capture a warlike character, having been satisfactorily proved to be genuine, the prisoners were thereupon at once discharged. He states that under these circumstances it is sufficiently plain that the charge of piracy could not be sustained; but it seems to be equally clear that a systematic violation of the foreign enlistment act has been carried on in Bermuda.	408
	Lord Lyons to Earl Russell.	Nov. 15	Incloses a dispatch from the lieutenant governor of Bermuda, reporting the proceedings taken by the colonial authorities concerning the capture of the Roanoke by John C. Braine and others.	411
	Do.....	Nov. 18	Incloses extract from the Washington Chronicle, giving a summary of the proceedings before the courts of Bermuda in relation to the capture of the Roanoke, and, also, showing the wording of the commission of John C. Braine, signed by the confederate secretary of the navy.	413
1165	Mr. Seward to Mr. Adams.	Nov. 30	Incloses correspondence which has taken place between the United States consul at Bermuda and the authorities of those islands, relative to the capture of the Roanoke by the insurgents. Mr. Adams is instructed to make known the facts to the British government, and protest against the proceedings at Bermuda in enlisting the men and discharging the accused parties; the protest to apply particularly to Braine, who was concerned in the affair of the Chesapeake, and whose delivery was refused.	414

GENERAL APPENDIX No. XIV—Continued.

No.	From whom and to whom.	Date.	Subject.	Page.
	Earl Russell to Lord Lyons.	1864. Dec. 17	Her Majesty's government having had under their consideration the proceedings of the authorities of Bermuda in the case of the persons who captured the Roanoke, they are of opinion that the men were not improperly arrested upon the charge of piracy, and that the attorney general of Bermuda properly withdrew the charge on the production of the commission of Braine; and they also consider that the persons could not have been delivered up under the extradition treaty, even if the consul's application had been made in proper form.	414
836	Mr. Adams to Mr. Seward.	Dec. 22	Incloses his note to Lord Russell protesting against the proceedings of the authorities of Bermuda, so far as they relate to the enlistment of men and the discharge of the parties concerned in capture of the Roanoke; and protesting particularly against the action taken in regard to Braine, who was engaged in a similar outrage in the case of the Chesapeake.	415
	Mr. Cardwell to acting Governor Hamley.	1865. Jan. 16	He is of opinion that John C. Braine, and the men under his orders, were properly arrested upon the charge of piracy, and he also thinks that the attorney general properly withdrew the charge upon the production of the commission of Braine from the confederate government. The circumstances of this case show the necessity of enforcing stringently her Majesty's orders against the entrance of prizes taken by either belligerent within the territorial waters of her Majesty.	420
864	Mr. Adams to Mr. Seward.	Jan. 26	Incloses Lord Russell's reply to his note of December 22. Lord Russell states that the papers refer to two different complaints; the first complaint is that persons were enlisted at Bermuda with a view to make war on a state in amity with Great Britain. The answer is, that sufficient evidence to convict the accused was not produced, and, consequently, they could not be convicted. The other complaint is that the Roanoke was captured by her passengers, who made themselves master of the vessel, destroyed her, and were afterwards permitted to land on the island of Bermuda. The answer to this complaint is, that the persons arrested produced a commission, authorizing that act as an operation of war, from the confederate government, which is acknowledged by her Majesty's government to possess belligerent rights.	420
1270	Mr. Seward to Mr. Adams.	Feb. 13	Acknowledges Mr. Adams's No. 864. Lord Russell has controverted the facts upon which our complaint in the matter of the Roanoke was based. They show that Bermuda has been made a base of hostilities	421

GENERAL APPENDIX No. XIV—Continued.

No.	From whom and to whom.	Date.	Subject.	Page.
		1865.	against the United States; and yet it now appears that her Majesty's government do not think themselves called upon to exercise the same vigilance and diligence in order to secure its just rights, as has been exercised by Canada. Awaits with solicitude the further progress of events in the two provinces, respectively.	

GENERAL APPENDIX No. XV.

List of claims for property destroyed by insurgent cruisers.

		1866. Aug. 27	Summary of claims for property destroyed by the rebel cruisers fitted out in British ports.	422
		1869. April 3	Revised and additional list of claims for property destroyed by rebel cruisers.	444

PARLIAMENTARY AND JUDICIAL APPENDIX No. I.

Parliamentary notices for the recognition of the southern confederacy.

330	Mr. Gregory	1861. Mar. 4	Expediency of prompt recognition of the southern confederacy.	479
	Mr. Dallas to Mr. Seward.	April 9	A motion will be made in the House of Commons to-night by Lord Alfred Churchill for the recognition of the southern confederacy, and on the 15th a similar motion will be pressed by Mr. W. H. Gregory.	479
	Lord Churchill...	April 9	Whether it is the intention to recognize the Confederate States, and whether it is the intention of the government to confer with European powers to prevent the African slave trade being reopened or carried on under the flag of the confederates.	479
	Mr. Gregory.....	April 16	Expediency of prompt recognition of the southern confederacy. Papers called for.	480
	Do.....	April 16	Expediency of prompt recognition of the southern confederacy.	480
	Mr. Forster	April 16	Amending the above; that the House does not at present desire to express any opinion; and that the government will at no time make such recognition without obtaining security against the renewal of the African slave trade.	480
333	Mr. Dallas to Mr. Seward.	May 2	Mr. Gregory's motion again postponed for a fortnight.	480
	Mr. Gregory	May 6	Whether any attempt by the United States to levy dues off foreign vessels outside confederate ports before such vessels break bulk would not be an infringement of international law.	481

PARLIAMENTARY AND JUDICIAL APPENDIX No. II.

Debates in Parliament previous to, and including that of, May 16, 1861.

No.	From whom and to whom.	Date.	Subject.	Page.
		1861.	SOUTHERN CONFEDERACY—LETTERS OF MARQUE.	
	House of Commons.	May 2	Mr. Ewart's speech.....	482
			Lord Russell's speech.....	482
			BLOCKADE OF THE PORTS OF THE SOUTHERN CONFEDERACY.	
	Do.....	May 6	Mr. Gregory's speech.....	482
			Lord Russell's speech.....	483
			Mr. Crawford's speech.....	483
			BELLIGERENT RIGHTS AT SEA.	
	Do.....	May 7	Mr. Walpole's speech.....	484
			Viscount Palmerston's speech.....	484
			Mr. Horsfall's speech.....	484
			PRIVATEERING.	
	Do.....	May 9	Mr. Forster's speech.....	484
			Sir George Lewis's speech.....	484
			THE UNITED STATES—THE CIVIL WAR—PRIVATEERING.	
	House of Lords ..	May 10	The Earl of Derby's speech.....	485
			Earl Granville's speech.....	486
			Lord Brougham's speech.....	486
			The Earl of Hardwicke's speech.....	486
			THE UNITED STATES—THE CIVIL WAR—PRIVATEERING.	
	Do.....	May 16	The Earl of Ellenborough's speech.....	486
			Earl Granville's speech.....	488
			The Earl of Derby's speech.....	488
			Lord Brougham's speech.....	489
			Lord Chelmsford's speech.....	489
			The Lord Chancellor's speech.....	490
			Lord Kingsdown's speech.....	490
			The Earl of Ellenborough's speech.....	491

PARLIAMENTARY AND JUDICIAL APPENDIX No. III.

Debate in the House of Commons on belligerent rights under the Queen's proclamation.

			UNITED STATES—THE CIVIL WAR—PRIVATEERING.	
	House of Commons.	1861.		
		June 3	Mr. Forster's speech.....	492
			Lord Russell's speech.....	492
			Sir John Pakington's speech.....	492
			Lord Russell's speech.....	492
			Mr. Liddell's speech.....	493
			Mr. Henley's speech.....	493
			Sir James Elphinstone's speech.....	493
			Lord Russell's speech.....	493
			Mr. Bouverie's speech.....	493

PARLIAMENTARY AND JUDICIAL APPENDIX No. IV.

Debate in the House of Lords on mediation or intercession in the civil war in the United States, and the recognition of the southern confederacy.

No.	From whom and to whom.	Date.	Subject.	Page
			UNITED STATES—THE SOUTHERN CONFEDERACY.	
	House of Lords ..	1863. Mar. 23	Lord Campbell's speech	494
			Earl Russell's speech	495

PARLIAMENTARY AND JUDICIAL APPENDIX No. V.

Debate in the House of Commons on belligerent rights of the southern confederacy, and on the case of the Pampero.

			UNITED STATES—CONFEDERATE CRUISERS.	
	House of Commons.	1864. Mar. 7	Mr. Long's speech	499
			The Attorney General's speech	499
			THE PAMPERO.	
	Do	Mar. 7	Mr. Dalglish's speech	499
			Mr. Layard's speech	499

PARLIAMENTARY AND JUDICIAL APPENDIX No. VI.

Debates in the House of Lords and the House of Commons on the withdrawal of the recognition of belligerent rights to the southern confederacy.

			BELLIGERENT RIGHTS.	
	House of Lords ..	1865. May 15	Lord Houghton's speech	500
			Earl Russell's speech	500
			BELLIGERENT RIGHTS OF THE CONFEDERATE STATES.	
	House of Commons.	May 15	Mr. White's speech	502
			Viscount Palmerston's speech	502

PARLIAMENTARY AND JUDICIAL APPENDIX No. VII.

Debate in the House of Lords on the withdrawal of the recognition of belligerent rights to the southern confederacy.

			UNITED STATES BELLIGERENT RIGHTS.	
	House of Lords ..	1865. June 12	The Earl of Derby's speech	503
			Earl Russell's speech	504

PARLIAMENTARY AND JUDICIAL APPENDIX No. VIII.

United States vs. Priolean and others.

No.	From whom and to whom.	Date.	Subject.	Page.
		1865. July 24	Bill of complaint in the case of the United States vs. Priolean and others.	506
		July 26	Judgment, as rendered by Vice-Chancellor Wood.	509

PARLIAMENTARY AND JUDICIAL APPENDIX No. IX.

Debate in the House of Commons on the fitting out of ships of war in British ports for the Confederate States.

			UNITED STATES—THE FOREIGN ENLISTMENT ACT.	
	House of Commons.	1863. Mar. 27	Mr. Forster's speech	513
			The Solicitor General's speech	517
			Mr. Baring's speech	524
			Mr. Bright's speech	526
			Mr. Laird's speech	528
			Viscount Palmerston's speech	530

PARLIAMENTARY AND JUDICIAL APPENDIX No. X.

Debate in the House of Lords on the French proposition for mediation in the civil war in the United States.

	House of Lords ..	1865. Feb. 5	Her Majesty's speech	532
			ADDRESS TO HER MAJESTY ON THE LORDS COMMISSIONERS' SPEECH.	
			The Earl of Dudley's speech	532
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			The Earl of Derby's speech	533
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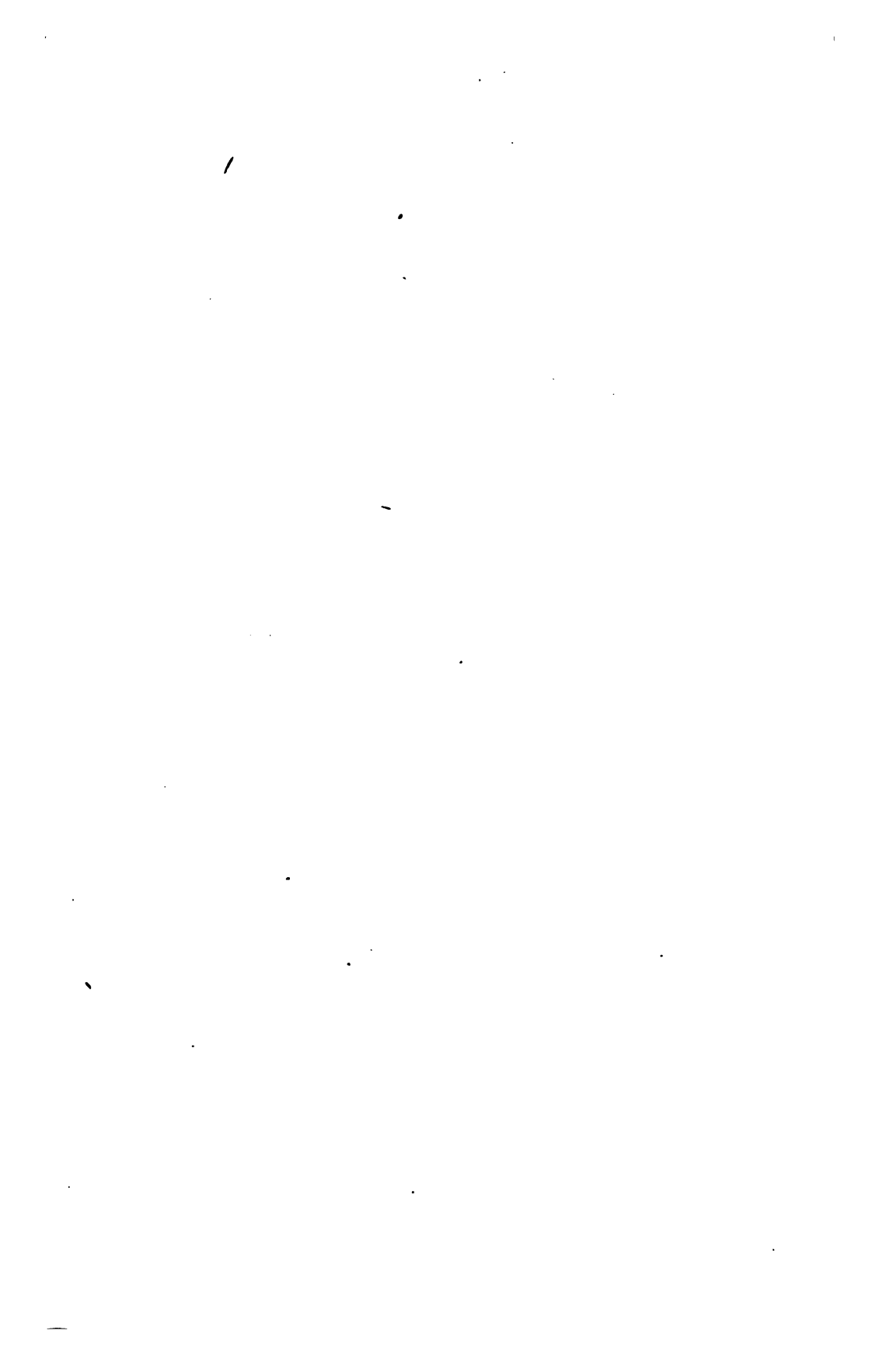
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GENERAL APPENDIX.



GENERAL APPENDIX
TO
CLAIMS AGAINST GREAT BRITAIN.

APPENDIX No. I.

PROCLAMATIONS AND DECLARATIONS OF POWERS OTHER
THAN GREAT BRITAIN, ISSUED SUBSEQUENTLY TO
THE QUEEN'S PROCLAMATION OF NEUTRALITY.*

BELGIUM.

Mr. Sanford to Mr. Seward.

[Extract.]

No. 10.]

LEGATION OF THE UNITED STATES,
Brussels, July 2, 1861.

SIR: Referring to a conversation detailed in my despatch No. 9, I have the honor to inclose a notice published in the official journal, (the *Moniteur*,) of the 25th ultimo, in which, basing its action upon the stipulations of the declaration of the congress of Paris of April 16, 1856, it is announced that instructions have been addressed to the judicial, maritime, and military authorities to inform them that privateers of no nation or flag, alone or with their prizes, will be permitted, save in cases of extreme danger by stress of weather, to enter the ports of Belgium; enjoining upon them to recognize no commission or letter of marque as having validity; and warning all subject to the Belgian laws that in taking part or service in any privateers they incur risk of being treated as pirates abroad, and of being prosecuted with the utmost rigor of the laws at home. In thanking the acting minister for this prompt response to my request, I observed that, while this was sufficient, in so far as it went, for the occasion that called it forth—as we had, and expected to have, no privateers upon the sea at this time—still, so long as we were not a party to the declaration of Paris, the employment of privateers by the United States was undoubtedly as much a belligerent right as the employment of militia on land; and in the event of a foreign war we should expect, on the part of friendly powers, no such impediment to its exercise by any injurious distinction between it and the other arms of the public service.

I have the honor to be, with great respect, your most obedient servant,

H. S. SANFORD.

Hon. WILLIAM H. SEWARD,
Secretary of State.

[Translation.]

Belgium has given its adhesion to the principles laid down in the declaration of the congress of Paris of April 16, 1856. This adhesion was published, together with said declaration, in the Belgian *Moniteur* of June 8, 1856.

The commercial public is notified that instructions on this subject have been given to the judicial, maritime, and military authorities, warning them that privateers, under whatever flag or commission, or letters of marque, are not to be allowed to enter our

* Referred to on page 44, vol. I.

ports except in case of imminent perils of the sea. The aforesaid authorities are charged, consequently, to keep a strict watch upon all such privateers and their prizes, and to compel them to put to sea again as soon as practicable.

The same authorities have been charged not to recognize the validity of any commission or letter of marque whatsoever.

All persons subject to the laws of Belgium, who shall fit out or take any part in any privateering expedition, will therefore expose themselves to the danger, on the one hand, of being treated as pirates abroad, and, on the other, to prosecution before Belgian tribunals with all the rigor of the laws.

FRANCE.

Mr. Dayton to Mr. Seward.

[Extract.]

No. 10.]

LEGATION OF THE UNITED STATES,
Paris, June 12, 1861.

SIR:

You will observe in the first column of "Le Moniteur Universel" (a copy of which is herewith sent) that his Majesty the Emperor of the French has published a formal declaration, setting out the principles by which this government will be controlled in respect to vessels of war or privateers of the United States and of those who *assume* to have formed ("prétendent former") a separate confederation. These principles are substantially the same as those set forth in my dispatch No. 5.

With high consideration, I have the honor to be your obedient servant,

WILLIAM L. DAYTON.

HON. WILLIAM H. SEWARD,
Secretary of State.

DECREE OF NAPOLEON ON PRIVATEERING AND NEUTRALITY.

[Translation from the Moniteur Universel of June, 1861.—Official part.]

PARIS, June 10.

The minister of foreign affairs has submitted to the Emperor the following declaration, which his Majesty has approved:

His Majesty the Emperor of the French, taking into consideration the state of peace which exists between France and the United States of America, has resolved to maintain a strict neutrality in the struggle entered upon between the government of the Union and the States which claim (*prétendent*) to form a separate confederation. In consequence, his Majesty, considering article 14 of the naval law of August, 1681, the third article of the law of the 10th of April, 1825, articles 84 and 85 of the penal code, 65 and following of the decree of the 24th of March, 1852, 313 and following of the code penal maritime, and article 21 of the code Napoleon, declares:

1. No vessel of war or privateer of either of the belligerent parties will be allowed to enter and stay with prizes in our ports or roadsteads longer than twenty-four hours, excepting in case of compulsory putting into port, (*relache forcée*.)

2. No sale of goods belonging to prizes is allowed in our said ports and roadsteads.

3. Every Frenchman is prohibited from taking a commission under either of the two parties to arm vessels of war, or to accept letters of marque for privateering purposes, or to assist in any manner whatsoever the equipment or armament of a vessel of war or privateer of either party.

4. Every Frenchman, whether residing in France or abroad, is likewise prohibited from enlisting or taking service either in the land army or on board vessels of war or privateers of either of the belligerents.

5. Frenchmen residing in France or abroad, must likewise abstain from any act which, committed in violation of the laws of the Empire or of international law, might be considered as an act hostile to one of the two parties, and contrary to the neutrality which we have resolved to observe. All persons acting contrary to the prohibitions and recommendations contained in the present declaration will be prosecuted, if there is occasion, conformably to the provisions of the law of the 10th April, 1825, and of articles 84 and 85 of the penal code, without prejudice to the application that might be made against such offenders of the 21st article of the code Napoleon, and of articles 65

and following of the decree of the 24th of March, 1852, on the merchant service, 313 and following of the penal code for the navy.

His Majesty declares, moreover, that every Frenchman contravening the present enactments will have no claim to any protection from his government, against the acts or measures, whatever they may be, which the belligerents may exercise or decree.

NAPOLEON.

E. THOUVENEL,

The Minister of Foreign Affairs.

HAWAIIAN ISLANDS.

Mr. Dryer to Mr. Seward.

No. 5.]

LEGATION OF THE UNITED STATES,
Honolulu, September 7, 1861.

SIR: Since my dispatch of the 5th September was closed and mailed, Mr. Wyllie has sent to this legation another draught of a proclamation of the King in relation to privateering, &c., &c. This is an improvement on the former one sent to me, and which I returned.

I have only time to make a copy, which please find inclosed, and which I send for the information of the government at Washington.

I am, sir, with great respect, your obedient servant,

THOMAS J. DRYER.

Hon. WILLIAM H. SEWARD,

Secretary of State.

PROCLAMATION OF KAMEHAMEHA IV, KING OF THE HAWAIIAN ISLANDS.

Be it known to all whom it may concern, that we, Kamehameha IV, King of the Hawaiian Islands, having been officially notified that hostilities are now unhappily pending between the government of the United States and certain States thereof, styling themselves "The Confederate States of America," hereby proclaim our neutrality between said contending parties.

That our neutrality is to be respected to the full extent of our jurisdiction, and that all captures and seizures made within the same are unlawful, and in violation of our rights as a sovereign.

And be it further known that we hereby strictly prohibit all our subjects, and all who reside or may be within our jurisdiction, from engaging, either directly or indirectly, in privateering against the shipping or commerce of either of the contending parties, or of rendering any aid to such enterprises whatever; and all persons so offending will be liable to the penalties imposed by the law of nations, as well as by the laws of said States, and they will in nowise obtain any protection from us as against any penal consequences which they may incur.

Be it further known that no adjudication of prizes will be entertained within our jurisdiction, nor will the sale of goods or other property belonging to prizes be allowed.

Be it further known that the rights of asylum are not extended to the privateers or their prizes, of either of the contending parties, excepting only in cases of distress or of compulsory delay by stress of weather or dangers of the sea, or in such cases as may be regulated by treaty stipulation.

Given at our marine residence of Kailua this 26th day of August, A. D. 1861, and the seventh of our reign.

KAMEHAMEHA.

By the King.

KAAHUMANU.

By the King and Kuhina Nui.

R. C. WYLLIE.

THE NETHERLANDS.

Mr. Pike to Mr. Seward.

[Extract.]

No. 4.]

LEGATION OF THE UNITED STATES,
The Hague, June 16, 1861.

SIR: I have obtained from the minister of foreign affairs copies of the proclamation about to be issued by this government in relation to the letters of marque recently issued by the Montgomery revolutionists.

ports except in case of imminent perils of the sea. The aforesaid authorities are charged, consequently, to keep a strict watch upon all such privateers and their prizes, and to compel them to put to sea again as soon as practicable.

The same authorities have been charged not to recognize the validity of any commission or letter of marque whatsoever.

All persons subject to the laws of Belgium, who shall fit out or take any part in any privateering expedition, will therefore expose themselves to the danger, on the one hand, of being treated as pirates abroad, and, on the other, to prosecution before Belgian tribunals with all the rigor of the laws.

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[Extract.]

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With high consideration, I have the honor to be your obedient servant,

WILLIAM L. DAYTON.

HON. WILLIAM H. SEWARD,
Secretary of State.

DECREE OF NAPOLEON ON PRIVATEERING AND NEUTRALITY.

[Translation from the *Moniteur Universel* of June, 1861.—Official part.]

PARIS, June 10.

The minister of foreign affairs has submitted to the Emperor the following declaration, which his Majesty has approved :

His Majesty the Emperor of the French, taking into consideration the state of peace which exists between France and the United States of America, has resolved to maintain a strict neutrality in the struggle entered upon between the government of the Union and the States which claim (*prétendent*) to form a separate confederation. In consequence, his Majesty, considering article 14 of the naval law of August, 1681, the third article of the law of the 10th of April, 1825, articles 84 and 85 of the penal code, 65 and following of the decree of the 24th of March, 1852, 313 and following of the code penal maritime, and article 21 of the code Napoleon, declares :

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and following of the decree of the 24th of March, 1852, on the merchant service, 313 and following of the penal code for the navy.

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That our neutrality is to be respected to the full extent of our jurisdiction, and that all captures and seizures made within the same are unlawful, and in violation of our rights as a sovereign.

And be it further known that we hereby strictly prohibit all our subjects, and all who reside or may be within our jurisdiction, from engaging, either directly or indirectly, in privateering against the shipping or commerce of either of the contending parties, or of rendering any aid to such enterprises whatever; and all persons so offending will be liable to the penalties imposed by the law of nations, as well as by the laws of said States, and they will in nowise obtain any protection from us as against any penal consequences which they may incur.

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R. C. WYLLIE.

THE NETHERLANDS.

Mr. Pike to Mr. Seward.

[Extract.]

No. 4.]

LEGATION OF THE UNITED STATES,
The Hague, June 16, 1861.

SIR: I have obtained from the minister of foreign affairs copies of the proclamation about to be issued by this government in relation to the letters of marque recently issued by the Montgomery revolutionists.

I have the honor to enclose the copies transmitted to me in the original Dutch. I see the instructions to ministers forbid the application of the contingent fund to pay translators, and I infer from this that the department prefers original documents. These papers warn the Dutch people against privateering, as an unlawful proceeding which may be deemed piracy, and they forbid the use of the ports of the Netherlands to privateers under any flag. They refer also to the fact of the adhesion of Holland to the declaration of the congress of Paris, in respect to maritime rights, made in 1856. It will likewise be observed that the Dutch government abstains from following the British example in excluding prizes brought in by ships of war.

I have the honor to be, with great respect, your most obedient servant,

JAMES S. PIKE.

HON. WILLIAM H. SEWARD,
Secretary of State.

[Translation.]

In obedience to the King's orders the ministers for foreign affairs, of justice, and of the marine, present to the knowledge of all it may concern, that to guard against probable difficulties during the doubtful complications in the United States of North America, no privateers under any flag soever, or provided with any commission or letters of marque, or their prizes, shall be admitted into our havens or seaports, unless in case of marine disaster, and that requisite orders be issued that under any circumstances such privateers and their prizes be required to go again to sea as speedily as possible.

AT THE HAGUE.

The ministers above named.

[Translation.]

The minister for foreign affairs and the minister of justice, by the King's authority, warn, by these presents, all inhabitants of the kingdom, that during the existing disturbances in the United States of America they in nowise take part in privateering, because the Netherlands government has acceded to the declaration upon maritime rights set forth by the Paris conference of 1856, whereby, among other matters, privateering is abolished, and no recognition of commissions got for letters of marque permitted. Also that commissions and letters of marque in conflict with the aforesaid prohibition, which may issue to inhabitants of the Netherlands, cannot have a lawful effect in behalf of the King's subjects, or of any abroad who are in subjection to the laws of the kingdom. Those who, under such circumstances, engage in or lend their aid in privateering to other people, will be considered as pirates, and prosecuted according to law in the Netherlands, and subjected to the punishment provided for the commission of such offences.

THE HAGUE.

The ministers above named.

[Translation.]

The minister for foreign affairs, apprised by a communication from the minister of marine that the King has authorized the naval force in the West Indies to be seasonably strengthened by his Majesty's steam frigate *Zealand*, and the screw propellers *Dyambi* and *Vesuvius*, for the purpose of giving protection to the trade and navigation of the Netherlands during the contest which seems to be in existence in the United States of North America, wherever it may be desired, therefore esteems it to be his duty to direct the attention of ship-masters, consignees, and freighters, to the peril to which their insurance against loss will be exposed by any violation of the obligations imposed on neutral powers to respect actual blockades, and not to carry contraband of war, or despatches of belligerents.

In these cases they will be subject to all the resulting losses that may follow, without the benefit of any protection or intervention on the part of his Majesty's government. Of which take notice.

THE HAGUE, June, 1861.

The minister above named

PORTUGAL.

Mr. Harvey to Mr. Seward.

No. 13.]

LEGATION OF THE UNITED STATES,
Lisbon, August 25, 1861.

SIR: I have the honor to inclose herewith the copy of a note from the foreign office, covering the copy of a proclamation in regard to privateers and their prizes, (Nos. 1 and 2,) in the form finally adopted by the council of state. This decree was published in the official paper (*Diario de Lisboa*) on the 23d instant, a copy of which has already been transmitted to the department.

By referring to my dispatch No. 8, it will be seen that the preamble of the proclamation has been modified, so as to escape the logical inconsistencies which I then pointed out, in the hope of inducing the omission of certain phrases, which would have rendered it more acceptable. I have the best reason to know that the council of ministers, or cabinet, were not only well disposed to adopt my proposed amendment, but that they submitted the proclamation with the revision.

When the result became known to me, I urged, with every influence and persuasion at my command, an immediate decision, so as to insure the promulgation before any interrupting cause or accident could intervene. But the King went away for a short time, and a council of state, to which the proposed action of the council of ministers on important questions is presented for examination, could not be convened. In the meantime intelligence from the United States of an eventful character affected opinion here, and gave increased weight to the objections which had been urged by the British minister and others against the form of proclamation which I had requested. A council of state was summoned upon the return of the King, and the result of their deliberations is to be found in the documents inclosed in this dispatch.

While I should have been greatly gratified had my amendment been accepted, I have the satisfaction to know that it did not fail from any want of zeal, energy, or effort on my part, and that the proclamation as it now stands is mainly predicated upon your policy, in execution of the principle of the treaty of Paris, and is not open to the objections urged against those issued by England, France, or Spain.

I have the honor to be, sir, very respectfully,

JAMES E. HARVEY.

Hon. WILLIAM H. SEWARD,
Secretary of State.

Count d'Avila to Mr. Harvey.

[Translation.]

No. 1.]

DEPARTMENT OF STATE FOR FOREIGN AFFAIRS,
August 22, 1861.

The councillor of state, Antonio José d'Avila, presents his most attentive compliments to Mr. James E. Harvey, and has the honor to remit him the inclosed copy of the decree of the 29th of July last, published according to the last form given thereto, after hearing the council of state.

[Translation.]

No. 2.]

MINISTRY OF FOREIGN AFFAIRS.

It being proper, in view of the circumstances at present existing in regard to the United States of America, to carry into effect the principles established in the declaration of Paris of April 16, 1856, made by the representatives of the powers that signed the treaty of peace of the 30th of March of that year, to which declaration my government acceded, and likewise, for the same reason, to adopt other measures which I deem opportune, I have been pleased, after hearing the council of state, to decree as follows:

ARTICLE 1.

In all the ports and waters of this kingdom, as well on the continent and in the adjacent islands as in the ultramarine provinces, Portuguese subjects and foreigners are prohibited from fitting out vessels destined for privateering.

ARTICLE 2.

In the same ports and waters referred to in the preceding article is, in like manner, prohibited the entrance of privateers and of the prizes made by privateers, or by armed vessels.

The cases of overruling necessity, (*força maior*), in which, according to the law of nations, hospitality is indispensable, are excepted from this regulation, without permission, however, being allowed, in any manner, for the sale of any objects proceeding from prizes.

The ministers and secretaries of state in all the departments will thus understand, and cause it to be executed.

PALACE OF NECESSIDADES, July 29, 1861.

KING.

MARQUEZ DE LOULÉ.
ALBERTO ANTONIO DE MORAES CARVALHO.
VISCONDE DE SÁ DA BANDEIRA.
CARLOS BENTO DA SILVA.
THIAGO AUGUSTO VELLOSO DE HORTA.
ANTONIO JOSÉ D'ÁVILA.

PRUSSIA.

Mr. Wright to Mr. Seward.

[Extract.]

No. 178.]

LEGATION OF THE UNITED STATES,
Berlin, June 25, 1861.

SIR:

I have received this moment a copy of the *National Zeitung*, containing the dispatch of Baron Schleinitz to Baron Gerolt; and also an order from the minister of commerce, addressed to Prussian subjects engaged in trade and commerce. This is not what I had expected. I was anticipating a proclamation from the King more full and distinct. This will doubtless have the desired effect, as it will be published in all the German journals, and coming from Prussia will be duly respected by the German States and Free Cities. Their sympathy and spirit is with the United States government.

Mr. Judd is expected on the 27th instant.

I have the honor to be, very respectfully, your obedient servant,

JOSEPH A. WRIGHT.

HON. WILLIAM H. SEWARD,
Secretary of State.

[Translation.]

On the same subject the minister of commerce issued the notification annexed to the mercantile classes in the Baltic ports:

It is my duty to make known to you that during the continuance of the conflict which has broken out among the North American States the mercantile classes must abstain from all enterprises which are forbidden by the general principles of international law, and especially by the ordinance of the 12th of June, 1856, which has relation to the declaration of the 12th of April, 1856, upon the principles of maritime law. Moreover, I will not omit to make it especially noticeable by you that the royal government will not permit to its shipping or its subjects, which may mix up in these conflicts by taking letters of marque, sharing in privateering enterprises, carrying merchandise contraband of war, or forwarding dispatches, to have the benefit of its protection against any losses which may befall them through such transactions.

The equipment of privateers in the ports of this country is forbidden by the laws of the land, as is known to the mercantile community.

RUSSIA.

Mr. Appleton to Mr. Seward.

[Extract.]

No. 18.]

LEGATION OF THE UNITED STATES,
St. Petersburg, May 22, (June 3,) 1861.

SIR: I have the honor to inclose copies, which I have received unofficially, of two orders of the Russian government which have been recently issued for the guidance of

its officers in respect to the flags and ships of the Confederate States. It will be seen that they conform to what was said to me on this subject by Prince Gortchacow in the conversation which I reported to the department in my No. 16. I ought to add that every American ship which has yet appeared at Cronstadt has shown the American flag and claimed the American character. In one case from a southern port the papers were not quite regular, but the irregularity was overlooked.

I am, very respectfully, your obedient servant,

JOHN APPLETON.

Hon. WILLIAM H. SEWARD,
Secretary of State.

[Translation.]

To the commander-in-chief of the port of Cronstadt:

His imperial highness the general admiral, foreseeing the possibility of ships belonging to the southern States of the American Union, which have seceded from the United States of North America, arriving at our ports during the present navigation, has directed me to inform your excellency, for your guidance, that, according to the opinion of the minister of foreign affairs, the flag of men-of-war belonging to the seceded States must not be saluted.

That there may be no obstacle in the way of commerce, merchant vessels of the seceded States are to be treated according to the rules acted on by us with regard to Italian merchant vessels sailing under the Italian flag; i. e., according to the treaties that are at present in force, (commercial treaty concluded between America and us December 6-18, 1832.) Should the crews of vessels belonging to the seceded States not wish to acknowledge the authority of the consuls appointed by the federal government of Washington, then, in case of dispute, they must abide by the decision of our local authorities, in the same manner as foreigners whose governments have no representatives in our empire.

General Major GREIG,
Director of the Chancellery of the Ministry of Marine.

[Translation.]

CIRCULAR ADDRESSED TO THE CUSTOM-HOUSES IN THE WHITE, BALTIC, BLACK, AND AZOFF SEAS.

By order of the minister of finance, the department of foreign trade prescribes: In case any merchant vessels arrive in our ports belonging to the southern States of the American Union, the same not acknowledging the authority of the government of the United States of America, the said vessels are to be treated and received as hitherto, according to the treaty of 1832, should even their ships' papers not be in order, which may occur in consequence of the present political condition of the United States of America.

General Lieutenant PASHKOFF,
Director of the Department of Foreign Trade.
SORNIN, *Chief of Section, &c.*

SPAIN.

Mr. Perry to Mr. Seward.

No. 7.]

LEGATION OF THE UNITED STATES,
Madrid, June 19, 1861.

SIR: I have the honor to inclose the royal decree, published by the official gazette this morning, with its translation.

The minister of state has to-day, whilst acknowledging that its provisions are in great part taken from the French decree, drawn my attention to the fact that he has avoided the use of the expression *belligerents* as far as possible, or any other which could be considered as prejudging the question of right in any manner.

He also drew my attention to the fact that, though the decree proclaims neutrality, it expressly prohibits any supplies to be furnished to privateers in the Spanish ports, whilst vessels of war may be provided and equipped with all they need; and this provision tells exclusively against the party issuing letters of marque.

The preamble also is less objectionable than some other documents which have seen the light in Europe.

With the highest respect, sir, your obedient servant,

HORATIO J. PERRY.

Hon. WILLIAM H. SEWARD,
Secretary of State.

[Translation.]

MINISTRY OF STATE—ROYAL DECREE.

Taking into consideration the relations which exist between Spain and the United States of America, and the desirability that the reciprocal sentiments of good intelligence should not be changed by reason of the grave events which have taken place in that republic, I have resolved to maintain the most strict neutrality in the contest begun between the federal States of the Union and the States confederated at the south; and in order to avoid the damage which might come to my subjects and to navigation, and to commerce, from the want of clear provisions to which to adjust their conduct, in consonance with my council of ministers, I do decree the following:

ARTICLE 1. It is forbidden in all the ports of the monarchy to arm, provide, or equip any privateer vessel, whatever may be the flag she displays.

ART. 2. It is forbidden in like manner to the owners, masters, or captains of merchant vessels to accept letters of marque, or contribute in any way whatsoever to the armament or equipment of vessels of war or privateers.

ART. 3. It is forbidden to vessels of war or privateers with their prizes to enter or to remain for more than twenty-four hours in the ports of the monarchy, except in case of stress of weather. Whenever this last shall occur, the authorities will keep watch over the vessel and oblige her to get out to sea the soonest possible without permitting her to take in any stores except the purely necessary for the moment, but in no case arms nor supplies for war.

ART. 4. Articles proceeding from prizes shall not be sold in the ports of the monarchy.

ART. 5. The transportation under the Spanish flag of all articles of commerce is guaranteed, except when they are directed to blockaded ports. The transportation of effects of war is forbidden, as well as the carrying of papers or communications for belligerents. Transgressors shall be responsible for their acts, and shall have no right to the protection of my government.

ART. 6. It is forbidden to all Spaniards to enlist in the belligerent armies or take service on board of vessels of war or privateers.

ART. 7. My subjects will abstain from every act which, in violation of the laws of the kingdom, can be considered as contrary to neutrality.

ART. 8. Those who violate the foregoing provisions shall have no right to the protection of my government, shall suffer the consequences of the measures which the belligerents may dictate, and shall be punished according to the laws of Spain.

Palace, on the seventeenth of June, one thousand eight hundred and sixty-one.

SIGNED WITH THE ROYAL HAND.

The minister of state,

SATURNINO CALDERON COLLANTES.

Mr. Savage to Mr. Seward.

No. 56.]

CONSULATE GENERAL OF THE UNITED STATES OF AMERICA,

Havana, September 6, 1861.

SIR: Having learned, on the 30th ultimo, as I might say accidentally, that a vessel had come, several days before, into the port of Matanzas under the flag of the so-called Confederate States, and, notwithstanding the efforts of our consul there to prevent it, had been admitted by the authorities to entry, and to discharge her cargo, which course had been approved of by the superior authority of the island, I addressed the same day a letter to Mr. Martin, calling upon him for information on the subject. No reply having been received on the 2d instant to my letter, I wrote again, and yesterday morning

his answer came to hand. A copy of it and the accompanying papers are herewith inclosed. This correspondence contains all the facts relating to that case.

On the same day that I wrote my first letter to Consul Martin I ascertained that the governor general had decided to admit into the ports of the island all vessels arriving under the flag of the insurgents, and to allow them to discharge and take cargo. On the next day I succeeded in obtaining a copy, and it is now accompanied with a translation thereof. This order was transmitted by the intendant general of the army and treasury to the collector general of the maritime revenue; has not been published nor communicated to me in any form; and, although its existence is known to many, the public journals, excepting the Weekly Report in a general way, have not even mentioned it.

In a matter of such import, and feeling the conviction that no suggestions of this office would cause the captain general to cancel that order, I have deemed it expedient not to enter into any correspondence or discussion with him without specific instructions from the department; more especially after reading what Mr. Wheaton advances upon the subject, in pages 32, 33, and 34, Elements of International Law. Moreover, as the Spanish government has always denied to consuls any diplomatic power, I felt apprehensive that my first communication on the subject would be unheeded, or acknowledged with the remarks that the question comes within the province of our respective governments, and to be settled at Washington or Madrid.

I have the honor to be, sir, with great respect, your obedient servant,
THOS. SAVAGE, JR.,
United States Vice-Consul General.

Hon. WILLIAM H. SEWARD,
Secretary of State of the United States, Washington.

[Translation.]

His excellency the superior civil governor has, on date of 27th instant, resolved the following:

1st. All merchant vessels proceeding from and wearing the flag of the southern confederacy, employed in legitimate commerce, will be admitted in all the ports of entry of this island, if the documents they may present do not cause the slightest suspicion of piracy, fraud, or any other crime punishable according to the laws of all nations.

2d. Once in our ports, said vessels will be under the safeguard of the neutrality proclaimed by the government of her Majesty the Queen (whom God save) in the royal decree of the 17th of June, and in this understanding they cannot be molested by any foreign agent whilst engaged in their licit operations of entrance and discharge, loading and departure, in said ports.

3d. Therefore, all the civil, as well as naval and treasury, authorities in the ports of this island will consider such vessels, in relation to their admission and clearance, as vessels proceeding from a foreign nation which has no accredited consul in this territory.

Which, by order of the intendant general, I communicate to you for your intelligence and fulfillment of the part that concerns you.

APPENDIX No. II.

PAMPHLET ENTITLED "HASTY RECOGNITION," BY GEORGE BEMIS, ESQ., AND AN ARTICLE ON THE SAME SUBJECT, BY THE SAME AUTHOR, FROM THE NEW YORK TIMES OF MARCH 16, 1868.

HASTY RECOGNITION OF REBEL BELLIGERENCY, AND OUR RIGHT TO COMPLAIN OF IT.

PREFACE.

The following pamphlet, I am free to acknowledge, is both controversial and American: controversial, so far as it seeks to meet and answer the new position set up by Earl Russell, the British secretary of state for foreign affairs, on behalf of his ministry, and by Earl Russell's juridical champion, "Historicus," of the London Times, that the recognition of the American rebels as a belligerent power was a necessity and not a choice; and American, so far as it looks at this new *plea in avoidance* from an American point of view. Yet the writer cherishes a hope that his readers will find in the following pages something besides controversy and Americanism. He trusts that his labors will help throw light for the purposes of permanent history upon one of the great questions of public law of the nineteenth century, namely, whether the action of the two great western powers of Europe in so speedily raising the confederate secessionists to the rank of a belligerent power—thereby, perhaps, warming into life and helping to walk alone the most gigantic and immoral sedition in history, and inaugurating the bloodiest and most cruel civil war since the Christian era—was either a friendly or a justifiable measure; *friendly*, considering that it was apparently set in motion by one of the great heads of the English liberal party, a party whose antecedents were all in favor of popular rights, and committed without a reserve to uncompromising hostility against negro slavery, and seconded on the southern side of the British Channel by that France which had stood godfather to American liberties, and without whose aid Americans may freely admit that they would never have been independent unless after a long lapse of intermediate years—or *justifiable*, because as an international precedent, when can civil rebellion ever be justly counteracted and crushed out, if not in such a case as that of this American contest?—An assault, as the second greatest leader in the rebellion himself characterized it, upon "the best and freest government that the sun of heaven ever shone upon."

In my attempted elucidation of this great historic question I am well aware to how easy a refutation I expose myself (if I am wrong) when I venture to call in question Earl Russell's statement, that the law-advisers of the Crown in recommending the issue of the Queen's proclamation of neutrality, and so the recognition of confederate belligerency, grounded themselves upon the American proclamation of blockade as an overruling necessity which left no choice for British action. If the Crown lawyers really gave such advice, and the foreign secretary is not mistaken in his recollection, nothing will be easier than to produce their written opinion—if, in the judgment of the British cabinet, its own reputation for candor seems sufficiently involved to require it. Even then, however, I feel confident that my positions will hold good in three particulars:

(1.) That the Crown lawyers, in any advice given prior to May 6, 1861, gave an opinion upon an unofficial and probably imperfect copy of President Lincoln's proclamation;

(2.) That if they made the American blockade an important element in their opinion, it was only in the sense that it *entitled* not *required* her Majesty's government to proclaim neutrality and belligerency; and,

(3.) That they never advised that a manifesto of a *future* blockade—not then enforced or known to be enforced, and which, while directed against insurgent subjects, was so far municipal and ~~was~~ international that it professed to treat as pirates those rebellious subjects and all others found guilty of any adoption of Jefferson Davis's letters of marque and reprisal—*required* the neutral power of Great Britain to regard such manifesto as tantamount to the existence of a war, and thereupon to recognize two belligerent parties equally entitled to neutral consideration.

If on this latter point the record shall make against me, I shall appeal with full confidence from the judgment of English lawyers to the enlightened opinion of European and American publicists.

But, on the other hand, I venture, with all the confidence in the world, to enforce my other position with regard to the blockade proclamation, that provided the Crown lawyers gave the advice attributed to them by Earl Russell, and in that connection, yet the British government, represented by the foreign secretary, *never made any account of that advice*; and that the true reason for British action in acknowledging rebel belligerency and rebel equality was that set forth in Earl Russell's dispatch to Lord Lyons of May 6, 1861, in which the foreign secretary declares, in effect, that the American Union has gone to pieces, that the southern government has duly organized itself, and that her Majesty's government does not wish any secret to be made of its recognition and acceptance of these facts in its future dealings with the "late Union."

I ask the reader's special attention to this dispatch, which I am confident that no advice of the Crown lawyers and no apology of juridical journalists can explain away or render unimportant. Unlike, too, some of the other diplomatic documents which I am obliged to quote in their *excerpted* state, as prepared for publication, this state paper is not a mere "extract." *The whole* of its text is given, pure and simple, under the official *imprimatur* of a Blue Book; and I presume to say that that text will stand in history as a truer key to British intervention at the first stage of the American struggle, in the shape of what was called British neutrality, than any new gloss first devised or first made much account of, as late as March, 1865.

I deem it highly probable that the foreign secretary's friends will say for him, or he for himself, in extenuation of this state paper, that it was a hasty document, penned under the influence of what seemed at that moment a dark juncture in American affairs, and that it was only subsequent events which rendered the opinions therein put forth inopportune and unfounded. Perhaps Earl Russell's friends will even urge in his behalf that he knew more, at that crisis of the rebellion, of the dangers which threatened the American Union, than the American government itself. If so, I would ask *did Earl Russell get that knowledge from rebel conspirators and from traitors against their own government?* Not that I would necessarily imply that as a diplomatist he had not a right to listen to any plots that American conspirators might see fit to break to his ear; but if he had had that superior knowledge, would it not have been an act of national friendliness, which would have redounded to the advantage of the British nation to all posterity, if he had imparted it to the government of the United States and put them on their guard against unforeseen perils from a gigantic plot of treason?

But, supposing the foreign secretary to have had no such illegitimate source of information opened to him, or not to have availed himself of it, if opened, as that suggested; yet, if in any way he had a better information as to the magnitude of the dangers which were about to assail the United States, than the United States government itself, had he a right, I ask, to act upon those threatened dangers till they had actually come to pass and wrought out their evil results? Had he a right to declare a state of belligerency as actually existing, when he only saw it as a future contingency, however inevitable? Had he a right to say to the United States—You are gone to pieces; you are hopelessly separated into fragments; your rebels are as duly organized a government as yourself; when the American people had *hardly begun, as yet, to dream of the possibility of separation, much less of the dire necessity of civil war?*

The foreign secretary avows, in this dispatch of the 6th of May, 1861, that he knew what a tremendous struggle might be in store for the American republic, and the momentous consequences which a declaration of European neutrality would draw after it; why so hasty, then, in taking such a fearful step? Would it *have done any harm* to have waited twenty-four hours, or even eight days, to get speech with the new American minister? But, instead of waiting for Mr. Adams's explanatory statements and authentic intelligence, Earl Russell, as appears by this dispatch of the 6th of May, did not even wait for his own envoy's. While in one breath he is complaining that the delay of the steamers or the interruption of railroad and telegraph communication between Washington and New York has cut him off from the latest (and one would say most indispensable) intelligence from the seat of war, he is announcing before the close of the document that he is prepared to act and take all the consequences of the step of "investing" the rebels "with all the rights and prerogatives belonging to belligerents."

There may, possibly, have been no unfriendliness—no positive ill-wishing—in all this; but I appeal to the world whether it was not unduly precipitate, and whether it can be excused by any plea of unavoidable necessity?

Boston, May 30, 1865.

NOTE.—It seems proper to add, for the information of a certain portion of my readers, that a considerable part of the following paper appeared as a communication in the columns of the Boston Daily Advertiser of May 3d, by the favor of whose editors I was thus enabled to come before the public with so much of my matter, at an earlier day of publication, and before a larger circle of readers than I should otherwise have had an opportunity of addressing.

To those who took an interest in that communication I would say that I have added about a third part of new matter; giving (*inter alia*) the remarkable dispatch, in full, of Earl Russell, of May 6th, above commented on. I also subjoin, in another connection, some further strictures upon one of the closing paragraphs of that dispatch, the significance of which escaped my attention at that time. I have also added another piece of evidence telling against the foreign secretary's regard for the American proclamation of blockade, which I derive from his Blairgowrie speech of September, 1863, in reply to Mr. Sumner at the Cooper Institute in New York, the same month. For the reference to this piece of confirmatory proof I am indebted to a clerical friend, who shows his appreciation of "things to come" by keeping himself well informed in public events "that now are."

I have also added to my main discussion a more detailed reply to Historicus's communication to the Times, in defense of British neutrality; thinking that, as I subjoin that communication to this article by way of appendix, I may justly avail myself of this occasion to add some further criticisms which would have too much swollen my former communication for the columns of a daily newspaper. To those who are interested in seeing justice done to the speculations and statements of Historicus, I would suggest as the logical mode of estimating the fairness of my strictures upon them to commence the perusal of the pamphlet with the Appendix. In that way at least, by reading the eminent English publicist's paper entire and in one connection, they will get a specimen of his racy style and bold rhetoric.

Perhaps it is due to the fairness of literary and legal discussion to add that I have also availed myself of the present occasion to correct several errors of quotation from the language of others, and some inaccuracies of expression of my own, which were overlooked in the haste of preparing the newspaper communication. I believe, however, that they are all of a comparatively unimportant character.

I.—THE NEW POSITION OF THE BRITISH MINISTRY, THAT THE AMERICAN PROCLAMATION OF BLOCKADE OF THE CONFEDERATE PORTS NECESSITATED THE QUEEN'S PROCLAMATION OF NEUTRALITY, AN AFTERTHOUGHT.

It seems to be a settled thing that a serious demand is about being made by the United States upon England and France for the withdrawal or cancellation of their recognition of confederate belligerency. I do not propose now to discuss how that demand is likely to be received by the two great western powers of Europe, nor what should be our attitude in case of a refusal. But in anticipation of any decision which may be come to on the other side of the water, upon the first head, I desire to call attention to a noticeable change of position which Earl Russell and Historicus, the well-known international-law correspondent of the London Times, have just assumed, at our latest intelligence from England, in regard to the basis on which that belligerent recognition originally rested on the part of England; a change of position which implies that Englishmen are unwilling to stand by the justification then put forth, or that they are preparing themselves with a new plea to meet the anticipated demands to be made by us upon their government.

Mr. Bright, in a recent masterly speech in the House of Commons on the question of the Canadian defenses, (Times, March 14,) had undertaken to tell the British representatives, with bold frankness, that the reason why Englishmen feared a feeling of hostility toward them on the part of the Americans was because they had a guilty conscience themselves. that they deserved the ill-will of the United States for having treated them so badly throughout their struggle for national existence. Mr. Bright was vehemently "no, no" for this by some of the members of the House; but his speech manifestly made a profound sensation both inside and outside the parliamentary walls. The London Times forthwith launched a bitter diatribe against him, in the shape of a communication of two columns and a half from Historicus, which I propose presently to notice, and which will be found at length in the Appendix, and in two or three editorials, following up his speech, has attempted to reply to its positions. Earl Russell felt compelled to notice it in the House of Lords; and though he could not answer it formally, through that parliamentary rule which forbids allusion in one branch to words spoken in the other, he took occasion to protest emphatically against "speeches declaring that this country [England] has behaved wrongfully to the United States," as showing England's enemies "that there is a party [here at home] ready to take up the view that the United States are in the right," and then proceeded to make a detailed rejoinder to Mr. Bright's several heads of accusation. In the course of this speech, made March 23, (London Times, March 24,) Earl Russell puts forth the following noticeable explanation of the original reasons for recognizing the confederates as belligerents, which I undertake to assert is an entire change of base from that promulgated at the time to this country and to the world at large, and which was never heard of till months—certainly, till many weeks—after the war began, when the course of events and the judicial decisions this side of the water rendered it convenient for England to adopt a new justification for her hasty action in recognizing, and (so) befriending, the

rebels. Says Earl Russell: "Every one who knows anything of the law of nations, knows perfectly well, that although a country may put down insurgents [who rise against its authority, yet that a country has no right or power to interfere with neutral commerce unless it assumes the position of a belligerent. But that is what the United States did. The President of the United States by his proclamation declared that the coasts of particular States were in a state of blockade, and that armed vessels belonging to those States were to be treated as pirates. * * * At that time Lord Campbell held the high office of lord chancellor, and of course we consulted him and the law officers of the Crown as to what should be done. Lord Campbell declared, as we all supposed he would do, that there was no course but one to pursue, namely, to regard the blockade on the part of the United States as the exercise of a belligerent right. And as belligerent rights cannot be confined to one party, but are usually exercised against somebody else, our advisers told us *that we were entitled to recognize the existence of belligerent rights on the part of both the combatants and to declare her Majesty's neutrality between the two parties.*" [Cheers.]

The italics near the close of the extract are mine;* and they naturally suggest an important difference between doing what one is only "entitled" to do, and yielding to an urgency so pressing as that just before suggested in Lord Campbell's opinion, where "there is no course but one to pursue." I apprehend that Earl Russell only meant to assert that President Lincoln's proclamation of blockade *entitled* the British government, not required it, to treat the two parties on a footing of equality. Historians, in his sweeping dogmatism, had asserted two days before, in his communication to the Times, that "It was a matter not of choice, but of necessity, that the Queen of England should issue a proclamation of neutrality to her subjects, and that that proclamation should be issued without one single instant's delay."

He further denounces his contempt for Mr. Bright's knowledge of statesmanship by asserting that, "Nothing has ever so much astonished him as to find that on either side of the Atlantic any man of ordinary intelligence and education should be capable of advancing or entertaining for an instant such a complaint [as that] of the premature concession of belligerent rights to the South by Great Britain."

Now, I propose to show my readers:

First. That this proposition of Earl Russell's and Historicus's, that the President's proclamation of blockade lay at the bottom of the recognition of the confederates as belligerents, if not a new discovery, was never heard of at the time that that recognition was resolved upon; certainly that it was never put forth as its justifying motive, either in contemporaneous explanation made to the United States or to the rest of the world.

Second. That any such attempted justification will fail, for the reason that no blockade ordered by the President was known in England to have actually been enforced at the date of the cabinet determination to issue the proclamation of neutrality; and, had it been known at that date, was just the act which called for explanation from international good will and courtesy, rather than an act to be visited with the harsh and summary treatment of raising a band of insurrectionists to the level of equality with their rightful government.

Third. That Historicus is guilty of the grossest inaccuracies, not to say misstatements, in his attempt to convict Mr. Bright of trumping up a case for the Americans on the score of unjust complaints about premature recognition of confederate belligerency.

First. That Earl Russell and Historicus are getting up a new issue for the justification of English haste in recognizing the confederates as belligerents—the old one being that there was a state of flagrant war between two duly organized governments.

The first element is the date on which the cabinet determination to issue the Queen's proclamation of neutrality was arrived at. This is important, because Historicus cites with a loud flourish of trumpets a dispatch of Lord Lyons to Earl Russell, dated April 22, 1861, and received in London May tenth, 1861, (a dispatch communicating the President's proclamation of blockade of April 19, and Jefferson Davis's proclamation threatening to issue letters of marque and reprisal, dated April 17,) and asks, in a tone of confident assurance, "what was the immediate duty of a government charged with the interest of British subjects all over the world, on the receipt of such a dispatch?"

Now, unfortunately for the British government's "duty," the ministerial determination to raise the confederates to the standing of belligerents had been announced *four days before this dispatch got to England!*

I find, in Hansard's "Parliamentary Debates," (v. 169, p. 1566,) that Lord John Russell, the British secretary of state for foreign affairs, on the sixth day of May, in answer to questions put by Mr. Gregory, announced, in his place in Parliament, that the cabinet, having "consulted the law-officers of the Crown—the attorney-general, the solicitor-general, and the Queen's advocate—the government have come to the opinion that the southern confederacy of America, according to those principles which seem to them to be just principles, must be treated as a belligerent."

* I desire to state that in subsequent extracts hereafter I shall italicize in the same manner, where I seek to give prominence to particular passages.

Of course the London Times and other confederate organs dilated the next morning upon the importance of this ministerial step. So that we have it fixed as an historical fact, to all posterity, that the authorized spokesman of the British cabinet officially announced to the House of Commons, on the 6th day of May, 1861, that the British government had resolved to recognize the confederates as a belligerent power. The home secretary, Sir George Cornwall Lewis, announced to the same body, on the 9th of the same May, that a proclamation of neutrality was about to be issued; and the proclamation itself actually bears date the 13th. But of course the blow at the integrity of the American government, or at American good will, shall I say? was leveled at the date of the 6th.

So that if Historicus (following the Blue Book) correctly states the date of the reception at the foreign office of the official copy of the President's proclamation of blockade, on which official communication of the document only, as he seems properly to consider, were the British government authorized to treat it as a valid state paper, it follows that the *Queen's proclamation of neutrality could have had no connection with the American proclamation of blockade, inasmuch as the former preceded all official knowledge of the latter by at least three entire days.*

How, then, could Lord Campbell or the law-advisers of the Crown have given any such advice as Earl Russell is now sure that they gave, or, as Historicus is ready dogmatically to prove, *a priori*, that they could not help but have given?

But supposing that the telegraph or the newspapers had brought to the foreign office, at an earlier date than the 6th of May, the upshot and effect of the blockade proclamation, or even what purported to be a summary of its contents, (of which I am free to confess that I make no question; indeed, I purpose presently to quote a dispatch of Earl Russell's to Lord Cowley of that date, distinctly assuming a knowledge of its existence,) and supposing further, that the law advisers of the Crown were willing to give their opinion upon the scope and bearing of the proclamation without having the official text before them, (which I must confess I can hardly for a moment believe would either have been asked or expected of them,)* let us see if Earl Russell's new theory is borne out by the other attending facts and probabilities belonging to the case.

In the first place, I beg my readers to look at the contemporaneous explanation of motives accompanying the announcement of the determination of her Majesty's government to extend to the rebels the *status* of belligerents, put forth by Earl Russell himself.

I have already quoted from Hansard a part of the foreign secretary's declaration on the 6th of May. I now go back and give a few sentences earlier:

"With respect to belligerent rights in the case of certain portions of a State being in insurrection, there was a precedent which seems applicable to this purpose, in the year 1825. The British government at that time allowed the belligerent rights of the provisional government of Greece, and in consequence of that allowance the Turkish government made a remonstrance. I may state the nature of that remonstrance and the reply of Mr. Canning. The Turkish government complained that the British government allowed to the Greeks a belligerent character, and observed that it appeared to forget that to subjects in rebellion no national character could properly belong. But the British government informed Mr. Stratford Canning that the character of belligerency was not so much a principle as a fact; that a certain degree of force and consistency acquired by any mass of population engaged in war entitled that population to be treated as a belligerent, and, even if their title were questionable, rendered it the interest, well understood of all civilized nations, so to treat them; for what was the alternative? A power or a community (call it which you will) which was at war with another and which covered the sea with its cruisers, must either be acknowledged as a belligerent or dealt with as a pirate; which latter character as applied to the Greeks was loudly disclaimed."

* I believe that it will turn out on investigation that the foreign office at the date of the 6th of May, 1861, and until the receipt of Lord Lyons's dispatch referred to, on the 10th, had not even a correct or complete newspaper copy of the blockade proclamation before it, upon which to act or to solicit an opinion from the Crown lawyers. From what investigation I am able to give the subject, looking to two leading London journals and various American newspapers, I am led to believe that up to the 6th of May no other abstract or summary of the proclamation was known, on the other side of the Atlantic, than that contained in the telegraphic summary from Washington to the New York daily newspapers of April 20, communication being interrupted on that day between Washington and New York, and continuing so interrupted till the 27th, which summary, instead of giving the text of the proclamation, recites as an item of news, "The President has issued a proclamation that an insurrection against the government of the United States," &c., giving all the body of the proclamation except the last important sentence, which denounces the penalties of piracy against all who molest United States vessels, [under Jefferson Davis's commissions of marque and reprisal,] but containing such interpolations as "the President says," &c. [See, for instance, the London Daily News, of May 3, which copies this summary without the preamble or any signature of the President or Secretary of State.] The National Intelligencer of April 20, alone of American newspapers, I suspect, gave on that day what purported to be, and what actually was, the text of the proclamation. But this newspaper, I am quite confident, did not find its way to England till it was carried out by the packet which bore Lord Lyons's official copy of the President's proclamation, communicated to him from the State Department.

So that, according to this, while Earl Russell was likening the rebels to the struggling Greeks and the federal government to their Turkish oppressors—undesignedly, perhaps, though it was bitterly complained of at the time by the upholders of the Union cause—he was approving and acting upon Mr. Canning's *dictum*, that "belligerency is not so much a principle as a fact, and that a certain degree of force and consistency acquired by any mass of population engaged in war entitles that population to be treated as a belligerent."

What is there here which reads like the President's proclamation not merely "entitling" but *requiring* the British government to treat the declaration of blockade as tantamount to a declaration of war against the South? On the contrary, is not the inference unavoidable, that "the principles which seemed (to the law advisers) to be the just principles" for recognizing a state of belligerency on the part of the South were those sanctioned by the high authority of Canning, and acted upon under his lead in the case of the Greeks *versus* the Turks?

In the next place, I beg attention to the Queen's proclamation itself, as containing its own exposition of the motives which occasioned its issue. Herein I gladly follow Historicus, who challenges Mr. Bright to go over the instrument with him, and see how harmlessly impartial and unnoticeably inefficient are its provisions. If it be true that Mr. Bright had never read or closely scanned these provisions, as Historicus presumes to believe, then I can only say that I venture to suggest that Mr. Bright has much better got at its scope by hearsay and on trust than his critic, with all his refinements and improvements, who undertakes to say that it is based upon the American proclamation of blockade, and who, in a gross confounding together of the English and American proclamations, (or something worse,) interpolates into the latter an important paragraph, belonging only to the former and wholly perverse of its leading intent.

Says the Queen's proclamation, then, in its recital clause:

"Whereas *hostilities have unhappily commenced* between the government of the United States of America and certain States styling themselves the Confederate States of America"—not, whereas certain proclamations of blockade and of threat to issue letters of marque and reprisal have been published by President Lincoln and Mr. Jefferson Davis—and [going on] "whereas we have declared our royal determination to maintain a strict and impartial neutrality *in the contest* between the said contending parties"—not, whereas we are compelled to define our position in the state of constructive warfare consequent upon the federal manifesto—[we therefore have thought fit] "to issue this our royal proclamation; and we do hereby strictly charge and command all our loving subjects to observe a strict neutrality *in and during the aforesaid hostilities.*" It then goes on to recite the terms of the foreign enlistment act, (which Historicus says is never operative except in case of war,) and concludes with the denunciation and exposition of the specific acts of entering the military or marine service of either party, &c., which will be contrary to her Majesty's good pleasure, and will forfeit her countenance and protection as against either belligerent.

Thus summarized, is not this instrument as positive an assertion of her Majesty's behest and injunction that her subjects shall not intermingle in a flagrant war that has actually broken out and is now raging between the two belligerent factions of the American republic as words can frame? At any rate, does it not fully negative the notion that her Majesty's advisers had only in mind a *constructive*, and not an *actual* state of hostilities?

The only allusion to a blockade throughout the proclamation is, if anything, a more offensive announcement to the American government—who were sedulously insisting that the outbreak was only an insurrection, and to be smothered by a blockade without the use of force—than the perverse assertion that there was already a state of flagrant war itself. It occurs toward the end of the document, where British subjects, among other unneutral acts, are forbidden to "break, or endeavor to break, any blockade, lawfully or actually established, by or on behalf of either of the said contending parties." To think of its being suggested to an American, on the 6th day of May, 1861, that the northern ports were blockaded, or in danger of being blockaded, by a rebel navy!

But let us look outside of the proclamation for further contemporaneous explanation of its motives. The American minister, Mr. Adams, as Mr. Bright notices, had not yet reached England, though momentarily expected there, and though his arrival within a few days, or even hours, might almost be predicted with mathematical certainty, as his sailing from Boston had already been announced. In fact, he landed at Liverpool the evening of the 13th, and was probably met by the newboys crying the proclamation as he drove up from the steamboat to his lodgings. He hastened to London the 14th, and as soon as possible after, allowing for a few days' delay occasioned by a domestic bereavement which had befallen Lord Russell, obtained an interview with the foreign secretary.

The subject of the recognition of the confederates as belligerents was, of course, one of the leading topics of this interview. Mr. Adams has set down in his dispatch to his gov-

ernment, dated May 21, 1861, the full particulars of this (to him) most interesting commencement of his ministerial career. It will be found in the "President's Message and Accompanying Documents for 1862," and there covers some six pages. Not one word of this dispatch, from beginning to end, speaks of recognition being rendered necessary by the President's proclamation of blockade. On the contrary, the representation then made by Lord Russell is summed up in the following sentence, p. 92:*

"A necessity seemed to exist [as Lord Russell urged] to define the course of the government in regard to the participation of the subjects of Great Britain in the impending conflict. *Their conclusion had been that, as a question merely of fact, a war existed.*"

Earl Russell himself furnishes a report of this same interview to Lord Lyons, to be found in the Parliamentary Blue Book for 1862, ("North America, No. 1," p. 34.)† His own version, thus afforded, contains nothing at all at variance with Mr. Adams's account, but, on the contrary, fully corroborates it in important particulars. Thus, in a paragraph relating to full recognition of rebel independence, which Mr. Adams seemed to feel apprehensive of as the next step, Earl Russell reports himself as using the following language, quite upsetting any theory of a state of constructive belligerency:

"I said that we had taken no step except that of declaring ourselves neutral, and allowing to the southern States a belligerent character; *that the size and population of the seceding States were so considerable that we could not deny them that character.*"

Some allusion, to be sure, is made in both reports to the American blockade, but only to the point to inquire how complete the American government proposed to make it.

Now, I beg to ask if it is within the bounds of possibility that, if the proclamation of neutrality had been based upon the President's proclamation of blockade, (as Earl Russell says it was, quoting the Lord Chancellor,) no allusion should have been made to it by the foreign secretary in this interview? Here was Mr. Adams seeking an immediate interview, and demanding, with suppressed sensibility, if not with uncontrolled excitability, what was the meaning of this piece of unexpected and unwelcome conduct of England toward his government. And here, on the other hand, was the foreign secretary, fresh from the cabinet council and from contact with the lord chancellor and his legal associates, undertaking to explain the reasons of so grave and unfriendly a step on the part of his government, in the least offensive and yet most simple manner. Is it in human nature, if he could have replied to Mr. Adams—"It is all the fault of your President's proclamation; it is an unavoidable necessity, forced on us by him"—that he would not have surely done so?

It is very noticeable, in the same connection, that Earl Russell, when called upon to vindicate the issuing of the proclamation of neutrality on an emergency similar to that created by Mr. Adams's first official interview, and as late as September 25, 1863, namely, in his Blairgowrie speech in reply to Mr. Sumner's address at the Cooper Institute in New York, September 10, 1863, omits all allusion to the proclamation of blockade as one of the justifying motives for the declaration of British neutrality. Mr. Sumner had insisted, with great vehemence and power, that the declaration of neutrality, or of "equality" between the national government and "the rebel slave-mongers," was not only "an insult to the national government," but "a moral absurdity, offensive to reason and all those precedents which make the glory of the British name." And he had proceeded to charge upon it such bitter and momentous consequences that one would suppose that no possible stimulant could have been wanting to induce the foreign secretary to revive all the justifications which memory could conjure up to palliate the measure of "investing" the rebels "with all the rights and prerogatives of a belligerent." What had Earl Russell to say in reply?

This was his justification, according to the report of his speech in the London Times of September 28:

"Our course on the subject [of neutrality] has been attacked and blamed in the bitterest terms—blamed sometimes by the federals and sometimes by the confederates. The first offense was felt by the federals. They said we had no right to grant, so far as we were concerned, to the confederates the rights of belligerents. Well, now, gentlemen, that question of the rights of belligerents is a *question of fact*. I put it to you whether, with 5,000,000 people—5,000,000, I mean, of free men—declaring themselves in their several States collectively an independent State, we could pass over that as a petty rebellion? Our admirals asked whether the ships they met bearing the confederate flag should be treated as pirates or no. If we had treated them as pirates we should have been taking part in that contest. (Cheers.) It was impossible to look on the uprising of a community of five millions of people as a mere petty insurrection, (hear, hear,) or as not having the rights which at all times are given to those who, by their numbers and importance, or by the extent of territory they possess, are entitled to these rights. (Cheers.) Well, it was said we ought not to have done that because they were a community of slaveholders, &c."

So that at this juncture, again, there is no word about a blockade; but the old position of "a question of fact," and "a great community of rebel subjects." Truly, if

* See near the bottom of page 183, Vol. I, of this compilation.

† See Vol. I, p. 187, of this compilation.

Lord Campbell had survived to hear his noble friend make this utterance, he must have wondered at the notice taken of his own (supposed?) advice, that *the proclamation of blockade* had left but one course to pursue!

But the case against Earl Russell, founded upon contemporaneous evidence furnished by himself, by no means stops with his speech in Parliament of the 6th of May, announcing the government's decision, nor with the respective accounts of his first interview with Mr. Adams. Unfortunately for the foreign secretary, on the very day on which he announced in the House of Commons the ministerial determination to recognize the rebels as belligerents, he indited two dispatches, printed in the Parliamentary Blue Book for 1862, "North America, No. 3," in which he confidentially makes known to the English ambassadors at Paris and at Washington the motives which actuated the home government in coming to their decision. In that to Lord Cowley, (p. 1,)[†] he says:

"The accounts which have reached them from some of her Majesty's consuls, coupled with what has appeared in the public prints, are sufficient to show that *a civil war has broken out* among the States which lately composed the American Union. Other nations have, therefore, to consider the light in which, with reference to *that war*, they are to regard the confederacy into which the southern States have united themselves; and it appears to her Majesty's government that, looking at all the circumstances of the case, they cannot hesitate to admit that such confederacy is entitled to be considered as a belligerent, and, as such, invested with all the rights and prerogatives of a belligerent."

And, more pointedly still, in that to Lord Lyons, he writes (p. 2) as follows:‡

[Lord J. Russell to Lord Lyons.]

"FOREIGN OFFICE, May 6, 1861.

"MY LORD: Her Majesty's government are disappointed in not having received from you, by the mail which has just arrived, any report of the state of affairs, and of the prospects of the several parties with reference to the issue of the struggle which appears unfortunately to have commenced between them; but the interruption of the communication between Washington and New York sufficiently explains the non-arrival of New York dispatches.

"The account, however, which her Majesty's consuls at different ports were enabled to forward by the packet coincide in showing that whatever may be the final result of what cannot now be designated otherwise than as *the civil war which has broken out* between the several States of the *late Union*, for the present, at least, those States *have separated into distinct confederacies*, and as such are *carrying on war* against each other.

"The question for neutral nations to consider is, *what is the character of the war*; and whether it should be regarded as a war carried on between parties severally in a position to wage war, and to claim the rights and to perform the obligations attaching to belligerents!

"Her Majesty's government consider that that question can only be answered in the affirmative. If the government of the *northern portion of the late Union* possesses the advantages inherent in long-established governments, the government of the southern portion has nevertheless *duly constituted itself* and carries on in a regular form the administration of the civil government of the States of which it is composed.

"Her Majesty's government, therefore, without assuming to pronounce upon the merits of the question on which the respective parties are at issue, can do no less than *accept the facts* presented to them. They deeply deplore the disruption of a confederacy with which they have at all times sought to cultivate the most friendly relations; they view with the greatest apprehension and concern the misery and desolation in which that disruption threatens to involve the provinces *now arrayed in arms against each other*; but they feel that they cannot question the right of the southern States to claim to be recognized as a belligerent, and, as such, invested with all the rights and prerogatives of a belligerent.

"I think it right to give your lordship this timely notice of the view taken by her Majesty's government of the present state of affairs in North America, and her Majesty's government do not wish you to make any mystery of that view.

"I shall send your lordship by an early opportunity such further information on these matters as may be required for your guidance; at present I have only to add that no expression of regret that you may employ at the present disastrous state of affairs

*I would notice, in passing, how defective must have been the foreign secretary's memory of dates on this occasion, in coupling dispatches from the English admirals asking for instructions how to treat confederate cruisers with a period prior to May 6th, when the secretary himself had not yet received his official copy of the President's proclamation, and when Lord Lyons, in the dispatch inclosing it, of the date of April 22, (the same, received May 10, about which *Historicus* makes so great a demonstration,) only speaks of his (Lord Lyons) losing no time in communicating the proclamation to Admiral Milne. It is hard to see how Admiral Milne's answer to this communication could have got the start of Lord Lyons's dispatch, unless the admiral happened to be ashore at Halifax, and then it would be at most a single admiral, and not "*admirals*," who had asked for instructions.

†See Vol. I, page 36 of this compilation.

‡I give this dispatch entire, believing that it will constitute hereafter a memorable document in the history of the American civil struggle. See further comments on it hereafter, p. 30.

will too strongly declare the feelings with which her Majesty's government contemplates all the evils which cannot fail to result from it.

"I am, &c.,

"J. RUSSELL"

These grave utterances have never before been reprinted in the United States, that I am aware of. The dispatches from which they are taken well deserve the attention of the American reader as *tending to show* (in judicial phraseology)—I will not go so far as to say *as absolutely proving*—that it was England, and not France, which took the initiative in recognizing the belligerency of the confederates. As a matter of fact, England, as is well known, issued her proclamation of neutrality a month earlier than the French Emperor his. But I would ask any reader, English or American, if there is anything here which sounds like "interfering with neutral commerce" by an American blockade, as spoken of by Earl Russell in his late apology for the motives for recognition, or anything that sounds like the opinion quoted by him on the part of the lord chancellor, "that there was no course but one to pursue, namely, to regard the blockade on the part of the United States as the exercise of a belligerent right"? On the contrary, is there not matter enough here to have disturbed the conscience of Lord Russell when he read such a sentence as that reported in Mr. Bright's speech in the Times of March 14?

"Is there not a consciousness in your heart of hearts that you have not behaved generously toward your neighbor? [Loud cries of 'No!' and some cries of 'Hear, hear.'] Do we not feel in some way or other a reproving of conscience? [Renewed cries of 'No!'] And in ourselves are we not sensible of this, that conscience tends to make us cowards at this particular juncture? ['No, no.']"

To put my readers for a moment in possession of the facts upon which the British secretary for foreign affairs was making these utterances, namely, that a flagrant subsisting war between the two "distinct confederacies of the late Union," and the constitution of the southern confederacy into a duly organized form of government, were the grounds upon which her Majesty's government "feel that they cannot question the right of the southern States to claim to be recognized as a belligerent," I would state that the assault upon Fort Sumter was made April 12, and that it surrendered two days after, the 14th. This was the first intimation that the government at Washington had that the insurrectionists were preparing to push matters so far as to take up arms. Then, as I believe, every American will bear me out in asserting the general belief at the North was that the act was only one of "State-right" hotheads, which the great body of secessionists would repudiate immediately, and that the insurrection, if it called for the use of arms to suppress it, would be entirely local in its character and easily subdued. At this time the federal government had not a soldier in the field, nor had it taken the first step in arms toward avenging the gross insult offered to its flag. Lord Lyons, himself, writing to Earl Russell, under date of April 15, (received in London April 30, Blue Book, No. 1, p. 19.) speaks of the President's "only having resolved to adopt coercive measures against the South," not of having actually taken any steps in that direction, down to the date of the 13th. *Now there was just six days' interval between the receipt of this letter and the announcement in Parliament of the cabinet determination to recognize the confederates as belligerents.*

Was it ever heard of before in history that insurgents who were only known to have been in arms one week, and against whom it was not yet certain that the present government would adopt any other coercion than that of an external blockade, or, perhaps, a "repossessing itself of the forts, places, and property which had been seized from the national authority," were to be recognized as belligerents on the ground of a subsisting flagrant war, and that they had become a duly organized government?

But of course it will not be left out of view that the irresistible and inevitable necessity which is alleged to have constrained the acknowledgment of confederate belligerency, and so of confederate equality, must have arisen out of the rebels' ability to carry on war *by sea* as well as by land; since it was only on the sea that the steps taken to encounter and suppress their insurrectionary proceedings would touch upon the interests of England and France. Had the insurrection been purely inland, I suppose that it might have gone on for twenty years, and even assumed larger proportions than it did, without disturbing the equanimity of the two great western powers. I believe the world have not yet heard that the great struggle of the Poles for independence within the last two or three years necessitated any recognition of Polish belligerency. Now, how was the fact in regard to the marine struggle between "the two distinct confederacies of the late Union," as Lord Russell styles them on the 6th day of May, 1861?

It will hardly be pretended, I suppose, that there was on that day any subsisting war on the ocean between the two confederacies, nor even, I believe, that there was a probability of any such war for some time to come, unless the confederates could subsidize a show of naval force by hiring or buying vessels from abroad. But is England a convert to the doctrine of fighting naval wars by proxy? Quite recently we have heard of the proposal of Switzerland to buy or hire a seaport on the Mediterranean and hoist a nautical national flag. Is England so far prepared to accept the maxim in the

commercial law of agency that *qui facit per alium facit per se*, that she is ready to come into a European understanding to acknowledge Switzerland as a naval power in case of future continental wars, supposing that she can carry out her proposed extra-territorial arrangement? Does England recognize the right of her New Zealand rebels at the present moment to come to Europe or America and hire fighting ships to beat off her blockade of their island?

However the decision of England may be on these points, Earl Russell and Historicus cannot alter the fact, that at the inception of the rebellion the confederates had no naval armament of their own, and had no reasonable expectation of ever procuring any one that could for a moment withstand the Union marine. Down to the present moment, can the operations of even such pseudo war vessels as the Alabama and the Florida be said to have amounted to a state of organized belligerency against the North? I will not ask whether those skulking corsairs have been able to maintain any show of contention on an equal footing, but whether they have been able to keep up anything which approached an existing state of organized warfare? Has it not been buccaneering and marauding, on their part, even within Historicus's own admission, rather than a state of legitimate naval warfare?

But at the date of May 6th, 1861, Jefferson Davis, as Historicus urges, had threatened to issue letters of marque and reprisal, and the safety of British seamen and British commerce required his instantaneous recognition as a marine belligerent. As if Captain Kidd should have laid claims to the honors of war, because he had thought to enlarge his field of usefulness by granting commissions to others to encourage them to imitate his own prowess! Does Historicus say in earnest that England had anything to fear from Davis's privateers, either in assailing British ships of war, or in pillaging British merchantmen? If he does, I can only pronounce it, in my estimation, a deception and a pretense. For confederate cruisers to assail their good friends, the British, at that day of their embryo existence, is an absurdity too glaring to deserve a moment's reflection. But, then, to see the remedy actually applied! There was danger of having unrecognized privateers visit and search British merchantmen; and so, to guard against it, these privateers must needs be raised to the full rank of belligerents, and the whole fleet of British merchant ships enjoined by her Majesty's proclamation to yield a passive submission to whatever overhauling and turning upsidedown it might please Mr. Davis's employes to inflict upon them! An extraordinary mode of getting rid of an evil, that of swallowing it whole!

But to go a step further in estimating British sincerity in protecting British commerce from the aggressions of privateers. The United States, as is well known, at the very earliest outbreak of the rebellion, hastened to propose to the two Western European powers to come into the declaration of Paris and abolish privateering—the only point of resistance upon which the federal government had hitherto stood out. What was the English and French answer to the proposal? "We will not accept your proposal without the reservation of the full rights of your insurgent subjects to commission these privateers; for, otherwise, we should not be treating them on a footing of equality with you." So that England and France purposely kept alive the prospect of privateering depredations, and for the avowed object of enabling the rebels to carry on war to better advantage against their lawful government. I think very little of warding off a threatened commercial danger by such a process of purposely keeping it on foot and insisting upon its indefinite increase.

But what danger had England and France to dread from aggressions on the part of northern cruisers, if that bugbear is to constitute the constraining motive for recognition of belligerency at their hands? I believe I can best answer this question by requesting my reader to put himself into the current of events at the date of the occurrence of the Trent affair, and to bring before his mind the condition of things connected with that event. That memorable historical incident occurred in November, 1861, some seven or eight months after the attack on Sumter. Recalling, then, the relative attitude of the two countries, England and the United States, toward each other at that period, and remembering the sensation excited by that (probably) first act of visitation and search by an American war ship of an English merchantman—a case where, in the American view, Captain Wilkes fell short of his duty in not bringing in the Trent for adjudication, instead of letting her go again after a few hours' detention—can the reader believe for a moment that English commerce up to that point had experienced much annoyance from northern cruisers, though the right of visitation and search on their part had then been in full force for upward of seven months?

If Historicus quotes the fable of the wolf and lamb to illustrate any part of the relations subsisting between the two countries during the civil struggle—an illustration which he thinks pertinent to this complaint about premature recognition—I submit whether England, on this occasion of the Trent affair, should not justly take the part of the wolf, standing ready from the 6th day of May, 1861, till the 3d day of December following, to snap up any American lamb that should happen to trouble the stream of her commercial navigation. At any rate, with her *lamb-like* redress of the Trent injury, as Historicus would probably call it, is it very probable that she had previously suffered

from many antecedent aggressions upon her neutral rights by American public ships, or that if any such had really occurred, she had let them go by unnoticed?

But since Earl Russell and Historicus challenge an inquiry into the friendliness of the motives which impelled this sudden stroke of British diplomacy in recognizing confederate belligerency before there had been any speck of war on the sea and none on the land of more than six days' duration, by their new theory of protection to British maritime rights, I beg to call attention to another contemporaneous exposition of the reasons of state which probably prompted the measure, quite at variance with those now set up by them for the first time.

A debate occurred in the House of Lords on the 16th of May, 1861, three nights after the announcement of the proclamation of neutrality, and in which the inquiry was, what would be its effect upon privateering and upon Englishmen who should take part on the confederate side. The declarations made by the leading peers upon this head were so significant and decisive, that I desire to urge them upon the attention of any who are disposed to conclude that English recognition of confederate belligerency was a necessity and not a choice.

Says Lord Derby, who struck the key-note of the measure, (I quote from Hansard, v. 162, p. 2082, &c.):

"The northern States must not be allowed to entertain the opinion that they are at liberty so to strain the law as to convert privateering into piracy and visit it with death. The punishment under such circumstances of persons entitled to her Majesty's protection would not be viewed with indifference, but would receive the most serious consideration by this country."

Lord Chelmsford (ex-Lord Chancellor) was still more explicit:

"He should wish to know from his noble and learned friend, (Lord Brougham,) whether he meant to contend, that if an English ship were commissioned by those States, (the confederate,) and fitted out as a privateer against the federal government, her crew would under such circumstances be guilty of piracy? * * * * * British subjects so engaged would no doubt be answerable to the laws of their own country for an infraction of the foreign enlistment act; but it was perfectly clear, on principles of international law, that they would not be liable to be treated as pirates. * * * * * If, he might add, the southern confederacy had not been recognized by us as a belligerent power, he agreed with his noble and learned friend that any Englishman aiding them by fitting out a privateer against the federal government would be guilty of piracy."

So, Lord Chancellor Campbell, the very authority quoted by Earl Russell for the declaration of neutrality being based on President Lincoln's proclamation of blockade, expressed himself with equal explicitness and significance:

"If, after the publishing of the present proclamation, any English subject were to enter the service of either of the belligerents, * * * * * there could be no doubt, that although he would be guilty of a breach of the laws of his own country, he ought not to be regarded as a pirate for acting under a commission from a state admitted to be entitled to the exercise of belligerent rights, and carrying on which might be called a *justum bellum*. Anybody dealing with a man under these circumstances as a pirate and putting him to death, would, he contended, be guilty of murder."

Certainly the Lord Chancellor does not speak here as if the protection of British commerce required an immediate manifesto to the American government, warning them against interfering with British merchant ships and British neutral rights, but, on the contrary, the protection sought for seems to be that of confederate privateersmen, whom Lord Derby would not allow to be hung, and the protection of British ship-builders and British sailors from the penalties of piracy, to which both the Lord Chancellor and the ex-Lord Chancellor say they would have been liable, but for this measure of British foresight and British self-aggrandizement.

On this evidence, I submit to my readers, with entire confidence, whether it is not an afterthought on Earl Russell's and Historicus's part, in contending at this late date that there was no unfriendliness on the part of the British government in hastening to recognize the confederates as belligerents, but that they were constrained to do so in consequence of the establishment of the American blockade. I ask, rather, whether these two propositions are not so far made to appear:

1. That England hastened to raise the confederates to the status of a belligerent power under the pretence of an existing state of war, when as yet only an insurrectionary blow had been struck at Fort Sumter, and no more than one week was known to have elapsed within which the American government could decide whether the insurrection would need suppression by arms, and when as yet that government had not put the first soldier into the field nor fired the first gun toward such a suppression.

2. That the motive for recognition of southern belligerency was much more to throw protection over confederate privateers and their crews, and to aid the rebel cause with contributions of English volunteers and English naval armaments and equipments, than to guard English commerce from being harassed or interfered with by American cruisers.

II.—THE AMERICAN PROCLAMATION OF BLOCKADE NOT THE OCCASION OF THE RECOGNITION OF CONFEDERATE BELLIGERENCY, BECAUSE, SUPPOSING THE FORMER TO HAVE BEEN OFFICIALLY COMMUNICATED, IT WAS NOT KNOWN TO HAVE BEEN ENFORCED AT THE DATE OF THE LATTER; AND FURTHERMORE, IF ENFORCED, WAS NOT SUCH AN ACT AS OUGHT TO HAVE BEEN INTERNATIONALLY TREATED AS AN ACT OF WAR.

I have to say, on this second head, that no such justification can be set up for the recognition of confederate belligerency as that of the establishment of the American blockade, because no such blockade was known in England to have been established at that date; and because the proclamation for a prospective blockade was just such an act as called for explanation from international comity, before being treated with the harsh construction that raised a band of insurrectionists to the level of equality with their rightful government.

Dates are of importance again on this head. President Lincoln issued two proclamations of blockade, the first dated April 19, and announcing an intention to blockade the ports of seven States—South Carolina, Georgia, Alabama, Mississippi, Florida, Louisiana, and Texas; and the second, dated April 27, including in addition to the above the two States of Virginia and North Carolina, which had since given in their adhesion to the rebellion. Both these proclamations, I now submit, were only prospective in their nature, and on their face intended merely for measures for the suppression of domestic insurrection, but (more importantly for present purposes) *were never actually enforced till the 30th day of April.*

This last point is established on British authority, by evidence of British consuls resident in America, collected in the Blue Books for 1862 ("North America, No. 8.") The earliest blockade was that established at the mouth of Chesapeake Bay by Commodore Pendergrast, April 30. Other points were blockaded at the following dates: Charleston, May 13; Mobile, May 27; New Orleans, May 23, &c.

If further corroboration were wanted of the fact that the earliest date at which the American blockade took effect was April 30, it will be found in the decision of the United States Supreme Court in "the Prize Cases," reported in 2d Black's Reports, p. 635, where the precise question of this date arose, involving captures of many hundreds of thousands of dollars in value. So that we may proceed in this discussion with the accepted starting-point, that no American blockade took effect till April 30, 1861; and that then there was the further grace of fifteen days for outward-bound vessels, and of being warned off for the first time for inward-bound vessels, ignorant of the establishment of the blockade.

Now, it needs no great amount of calculation to demonstrate that an event occurring at sea on the American coast April 30, and so not known on shore till some time later, could not have been known in England so soon as May 6. The submarine telegraph had long before ceased to operate, and we may safely assume that Commodore Pendergrast's operations were not known in England at that date, nor even as early as May 13. The determination to issue the proclamation of neutrality, I conclude, then, with perfect confidence, did not rest upon any knowledge of the American blockade being actually in force.

I next submit that the President's proclamation of April 19 (and there is no difference in this respect with regard to the proclamation of the 27th) is merely prospective in its nature—declaratory of an intent to establish a blockade in future—and that it purports to be a mere municipal or domestic measure for the collection of revenue and the restoration of domestic good order.

That it was merely prospective in its nature and declaratory of a future intent is judicially settled by the federal Supreme Court in the case just quoted from the 2d of Black's Reports. Both portions of the bench, the majority who gave the decision of the court, and the dissenting minority, harmonize in opinions on this point. If it were worth while; I would stop to cite strong *dicta* by both sets of judges to corroborate this statement; but I deem it quite unnecessary, because I find that Earl Russell took the same view of it in the dispatch which he wrote to Lord Cowley, the British ambassador at Paris, May 6, already quoted. In that dispatch (p. 1) * he says: "President Lincoln, in behalf of the northern portion of the late United States, has issued a proclamation *declaratory of an intention* to subject the ports of the southern portion of the late Union to a rigorous blockade," &c.

So that on the very day of resolving to declare neutrality in the existing American war, Earl Russell was well aware that the American proclamation was only prospective. The same thing was well understood by Lord Lyons on the other side of the water, who, writing home to the foreign secretary as late as May 4, reports to him that Mr. Seward had written to say "that the proclamation is mere notice of an intention to carry the blockade into effect, and the existence of the blockade will be made known in proper form by the blockading vessels."

Having thus established that the blockade was merely a prospective measure, and so understood at the time, I would ask if Earl Russell, or Historicus, or any other

* See Vol. I, p. 36, of this compilation.

publicist, is prepared to assert that a threat to establish a blockade—even against an independent nation, much more against insurrectionary subjects—is a sufficient justification for proclaiming a state of war and recognizing the blockaded party as belligerents? Why! the very groundwork of fact assumed in Lord Campbell's reasoning for such an opinion (as reported by Lord Russell) has not yet come into existence. There cannot be "any interference with neutral commerce," till a neutral ship is stopped, or searched, or seized, neither of which acts is allowable till a blockade is established by the power issuing its manifesto of a future intent to that effect. Even the (so-called) belligerent's prize court would not pretend to condemn captures of war till the blockade was thus actually enforced. Let the reader just reflect upon the point of controversy in the prize cases just quoted, where the federal court only condemned for a violation of blockade committed fifteen days after the 30th of April, and where the contention turned upon the date of the establishment of this blockade, and he will see at once the justice of my position.

To give the point a popular test, let me ask, whether if the county of Cork, in Ireland, for instance, were in a state of insurrection against the British Crown, and the home government for reasons of convenience should elect to suppress the rising by a marine instead of a military force, would it be thought a just cause for the recognition of the insurgents as a belligerent power, for the cabinet to announce its intention to blockade the port of Cork within a given time? Why! the very Declaration of Paris of 1856 announces that such pronunciamientos are null and void, and not to be respected till made effectual; and would Earl Russell now contend that he has a right to treat them as *casus belli*, and thereupon proclaim neutrality? On the contrary, in this very dispatch to Lord Cowley, of May 6, last referred to, Earl Russell makes it a special part of his application to the French government, to seek to compel the United States to come into one of the terms of that declaration—that relating to the abolition of privateering; it being well understood that they had already adopted in effect the clause in regard to constructive blockades.

But will a blockade, *actually enforced*, especially against insurrectionary subjects, necessarily draw after it the consequences of belligerency? This is a question which I believe that neither an English secretary of state for foreign affairs nor a French minister of foreign affairs would be very ready to answer in the affirmative. Thus, to put again the case just supposed, of the blockade of the port of Cork or Queenstown: Suppose that, instead of a promulgated intention to blockade, there were a blockade actually enforced, for some reason of its not being convenient to march troops through the interior of the country, would England take it in good part if the United States should acknowledge the belligerency of Queenstown and hasten to proffer to that town the aid of their sailors and their workshops?

Would France relish the doctrine that a blockade of revolted provinces necessarily creates a state of belligerency? She has actually and strictly blockaded the coast of Mexico for two years, prior to the treaty of 1839, without its being called a state of war. England and France jointly blockaded the ports of the Argentine Republic for ten years following 1838, and captures of contraband violators of the blockade were released on the ground that the blockade itself was not inconsistent with peace; and so of other instances noticed by Hautefeuille, (in his chapter on Pacific blockade,) who, I am willing to agree with Historicus, indulges in many doubtful theories of international law, but who, doubtless, is correct in the statement of these historical events which I have cited, especially as they make against the doctrine which he is seeking to establish. Russia again blockaded and closed the ports of her Circassian rebels on the east shore of the Black Sea for upwards of five years succeeding the year 1831; and, what is more, England, under the lead of Lord Palmerston as foreign secretary, acquiesced in the blockade and surrendered the claims of her subjects who suffered loss from it.* Indeed, I believe that I might safely assert that the diplomatic experience of Earl Russell would furnish him with at least twenty instances of established blockades, within his own personal cognizance, which have never been treated as belligerent acts. If that be so, or anything like it, then one may ask with weighty remonstrance, how happened it, that the cabinet to which he belonged seized upon this American denouncement of peaceful and commercial coercion towards its insurgent subjects as a ground for straightway raising them to the dignity of a belligerent power?

But this naturally leads me to the latter branch of my topic, that if the American proclamation of blockade were at all doubtful as a measure of interference with neutral rights, it was just the case for explanation, and not for being seized hold of as a pretext to do an international injury.

Is there any doubt that the President's proclamation of blockade meant *peace*, and not "war," as Historicus alleges?

I take occasion here to correct a gross misstatement, on this head, by the writer just named. He says that the Queen's proclamation of neutrality, like that of President

* See the case of the ship *Vixen*, 26 British and For. State Papers, p. 2. In this instance the Russian government, to be sure, did not use the term *blockade*, but the British merchant found the substance of the thing in it, to his cost.

Lincoln's of blockade, shows an existing state of war on the American side of the water. After quoting the recital of the first, "Whereas hostilities have unhappily commenced between the government of the United States of America and certain States," Historicus proceeds to characterize it as "a statement precisely in accordance with the proclamation of President Lincoln, which *had issued those words previously*."

Now there could not be a grosser inaccuracy, not to say perversion of the truth, than this. So far from President Lincoln's proclamation acknowledging the existence of a state of war, it was just the object of this state paper *not to do it*. On the contrary, the American proclamation begins, "Whereas an *insurrection* against the government of the United States has broken out" (in the seven States named) "and the laws of the United States for the *collection of revenue* cannot be effectually executed," &c., and "whereas a combination of persons engaged in such insurrection have threatened to grant pretended letters of marque," and "whereas an executive proclamation has already been issued requiring the persons engaged in those *disorderly proceedings* to desist therefrom," "now, I, Abraham Lincoln, President of the United States, with a view to the purposes before mentioned and *to the protection of the public peace*," &c., "have further deemed it advisable to set on foot a blockade," &c.

Not a word about "hostilities" from beginning to end; but, on the contrary, a blockade for the "collection of revenue," necessitated by "an insurrection," and designed for "the protection of the public peace."

Where were the eyes or the candor of Historicus, when he read that document and characterized it as he does? Even the editorials of the journal to which he lends the sanction of his name could hardly be guilty of a worse perversion; and I take the liberty of adding, that I fear his own communication throughout, in the present instance, has suffered from that corruption of good manners which is so sure to follow bad companionship.

What was precisely the American government's scheme of instituting the blockade, I cannot undertake to state. But that it was essentially a plan for smothering the slaveholders' rising, intended for domestic coercion and repression, and not for interference with foreign nations or for aggression upon their commerce, must, I think, be conceded by every impartial inquirer into the facts of that day. I cannot doubt but that, if the British and French governments had only signified in a friendly way to the American government that certain modifications of the rights of search on the high seas were necessary to prevent the blockade being considered of an international and not a municipal character, such modifications would have been cheerfully submitted to, without the insult and aggravation of being told that their government had already gone to pieces and that their rebel subjects were as good a belligerent power as themselves.

On the other hand, is it to be wondered at, that, after the incalculable lift given to the slaveholders' rebellion by this European action of recognition, and more especially after the significant virtual announcement by the two great Western powers that they cared more for procuring cotton than for the integrity of the American Union, and that they meant to leave the door open for blockade-running, at all events, the United States should accept, and feel constrained to act upon, a theory of blockade as imperfect as that left to it by the co-operation of British Lairds and British joint-stock, blockade-running associations?

I call attention, though, to the fact, that the decision of the United States Supreme Court, affirming the enforcement of the blockade to amount to a recognition of southern belligerency on the part of the United States for certain purposes, was made long after the action of the two great Western powers had compelled that government to accommodate its blockade to external dictation, and that, certainly, the change of this blockade from a municipal into an internationally-conducted proceeding would never have been necessitated but for the hasty and unfriendly recognition of southern belligerency.

If I am asked more particularly how this would have been brought about, if the proclamations of neutrality by England and France had never been issued, I answer that if, in the first place, the continuance of any American blockade would have been rendered necessary but for this European interference, I believe that it would have been the intention of the American government not to exercise belligerent rights on the high seas as to foreign nations—say the right of search and capture in case of carrying contraband of war—but that they would have contented themselves with a close blockade of the mouths of the southern harbors by stationary squadrons, and would only have dealt with violators of that blockade who came close to hand; just as in a besieged inland city, beleaguered on all sides, the right of suppressing internal insurrection would carry with it the right of treating any person violating the beleaguement as an enemy. Certainly, if the same principle of respecting a lawfully-established blockade had been observed by the English as has been practiced on by the French during the late rebellion, there would have been no difficulty in the United States government making good their intended domestic repression as against all external invasion.

I believe that I may safely conclude what I have to say upon this point of the American right to have foreign powers duly respect their blockade, established for revenue

and disciplinary purposes, by putting to English and French statesmen the question, Are you prepared to accept and to agree hereafter yourselves to abide by the precedent which your governments have set in this American civil war, of refusing to acknowledge any blockade established for the repression of domestic insurrection, except upon the footing of insurgent equality and of free license to blockade-running, except so far as is interfered with by the lax restraints of general maxims of international duty? If you are not, then you will agree with me, that even if the American blockade had been actually enforced at the date of the 6th of May, 1861, and even though that blockade had infringed upon the rights of foreign commerce in some degree, a fair share of international comity toward a nation engaged in the suppression of a groundless revolt, originating in the most immoral motives of any rebellion on record, would have kept off the recognition of its rebellious subjects as a belligerent power longer than was practiced toward the United States in the present struggle.

III.—CORRECTION OF VARIOUS MISSTATEMENTS OF HISTORICUS IN HIS ARTICLE OF MARCH 22, AND INCIDENTAL NOTICE OF EARL RUSSELL'S DISPATCH TO LORD LYONS OF MARCH 6, 1861.

I proceed briefly to notice some additional misstatements or perversions of fact of Historicus's, besides those which I have already attempted to set right. It is perhaps quite unnecessary to do this, at the side of the more general discussion in which I have engaged; but as I shall limit myself to those bearing upon the main points of contention, and as this writer enjoys (I take pleasure in saying, most deservedly, in many respects) a large share of English confidence for his elucidation of international topics, I trust that the reader who has thus far followed my disquisition will not find his patience abused by being asked to judge of the fairness of my strictures upon these detached though affiliated matters.

Historicus says (*inter alia*) that the proclamation of neutrality conferred no rights upon the confederates—it only recognized an existing state of things. In his precise words:

"It is nothing more nor less than a domestic document affecting the position of the Queen's subjects alone, and not in any way interfering with the affairs of other nations."

But did not Lord Russell regard it as something more, when he was communicating to the French government through Lord Cowley, with solemn diplomatic earnestness, as I have already quoted, that:

"Her Majesty's government cannot hesitate to admit that such confederacy is entitled to be considered a belligerent, and, as such, *invested with all the rights and prerogatives of a belligerent.*"

Who "invested" them with those rights and prerogatives, I would ask, but England and France? When Lord Chelmsford says, that, after the recognition of the Southern Confederacy as a belligerent power, no British subject aiding them in rebellion would be liable to be treated as a pirate, and that such a subject who undertook to fit out a privateer against the federal government, but for that recognition, would be guilty of piracy, is there no "conferring" of a right or privilege upon the rebels? When Lord Derby says that the northern States must be given to understand that they cannot turn privateering into piracy, and that if British subjects participate in the latter, they will still be treated as under her Majesty's protection, is it not "in some way interfering with the affairs of other nations?" And, finally, when the lord chancellor sums up the climax, by stating the law to be, that if any such British aider and abettor of the rebellion were treated as a pirate, the persons so dealing with him would be guilty of murder, does it not strike the common mind that the creation of such a state of things carries with it aid and comfort of an important kind?

And this leads me to notice another gross blunder (or something worse) on the part of Historicus, which the authority of the law lords just quoted effectually disposes of. He says:

"If no such war (recognized by the declaration of neutrality) existed, then the ship-builders might equip, arm, and dispatch, vessels of war equally to New York and to Charleston. English subjects might enlist and take service in the forces of either party."

And again:

"If there had been no war, Mr. Laird might have equipped for the South five hundred Alabamas without interference. This is what *the North have gained.*"

Per contra, Lord Chelmsford:

"If, he might add, the Southern Confederacy had not been recognized by us as a belligerent power, he agreed with his noble and learned friend (Brougham) that any Englishman aiding them by fitting out a privateer against the federal government would be guilty of piracy."

I have just above quoted the lord chancellor to the same effect. Lord Kingsdown

followed in the same strain. Indeed, so strong ran the debate in the "lords," in the direction of throwing British protection over aiding and abetting the confederate cause, that Lord Ellenborough at the close of the discussion had to deprecate what he thought would be the effect of the speeches made by the peers in counteracting the tenor and effect of the Queen's proclamation, by assuring Englishmen that if they adopted the notions of the speakers and took part in the war, they might find themselves hung, upon American principles, long before diplomacy could come to their relief. Perhaps these declarations of a lord chancellor and two ex-chancellors, to say nothing of the other legal luminaries alluded to, or who took part in the debate, will induce Historicus to abate somewhat from the *dash* of his assertion about fitting out Alabamas for the South with impunity. Perhaps, instead of asserting hereafter that Mr. Laird might have equipped "five hundred" "without interference," but for the Queen's proclamation, he will agree with Lord Chelmsford, that he could not have fitted out *one* without being guilty of piracy, unless for the shelter of that state document; and that will be enough for all practical purposes.

Enlarging upon the notions of free commerce and free fighting, Historicus goes on to say, that even the United States themselves did not treat the confederate privateers as pirates. And he quotes the case of the trial of the crew of the Savannah for piracy in New York, in 1861, (*not* 1862, as he erroneously has it,) where a confederate vessel had been captured at an early day of the rebellion by the federal navy, and her crew carried into that city and tried for piracy. He says:

"The judge charged the jury that the ship could not be regarded as a pirate under the law of nations. And the government could not get a jury to convict on the municipal statute. The arguments are published at length in a report of the trial, for a copy of which I am indebted to the eminent lawyer, Mr. Evarts, who represented the United States government on that occasion. * * * We have the authority of the American judges in this very conflict, that by the law of nations a southern privateer could not be treated as a pirate when exercising force against us."

In reply to this, I can only say that I wish Historicus had read the report of the trial so kindly sent him by Mr. Evarts, before making this representation, or *misrepresentation* of American law. I have the report referred to before me at this writing, and I read from the learned judge's charge to the jury, at p. 371, as follows:

"The robbery charged in this case is that which the act of Congress prescribes as a crime, and may be denominated a *statute offense*, as *contradistinguished from that known to the law of nations.*"

Thus, according to Judge Nelson, the crew of the Savannah were not tried at all for an offense under the law of nations; and the learned judge had no occasion to pass upon the question whether they were not protected from the penalties of piracy by being under the shelter of international law as legitimate belligerents. On the contrary, a little further on than where I have quoted, after explaining the statute, (an old one of 1820, denominating "robbery," &c., on the high seas, "piracy,") he goes on to say:

"Now, if you are satisfied, upon the evidence, that the prisoners have been guilty of this statute offense of a robbery upon the high seas, it is your duty to convict them, *though it may fall short of the offense as known to the law of nations.*"

The learned judge took especial pains *not* to take it upon himself to decide that the North had made the South belligerents under the law of nations, as Historicus would apparently have his readers believe, and expressly left the case to the jury upon the statute offense. That they did not convict was probably rather due to the judge's black-letter notion that the robbery must have been committed *lucri causa*, as in land robbery, than to any *dictum* of his about international law.

If Historicus would like to have the whole truth told, (supposing his acquaintance with American transactions has not yet put him in possession of it,) would he be glad to be informed that some of the confederate privateersmen were convicted of piracy in Philadelphia, about the same time and under precisely the same condition of things as the crew tried in New York; and that his authority, Judge Nelson, has since expressly held *in besoco*, at Washington, that there did not exist any state of belligerency between the North and South till July 13, 1861? If so, I would refer him to all the journals of the day for the first fact, and, for the second, to the following brief extract from Judge Nelson's opinion in "the Prize Cases," 2d of Black's U. S. Reports, already referred to. In this opinion Chief Justice Taney and Judges Catron and Clifford concurred with Judge Nelson. The whole case, it may be remarked in passing, which does not perhaps yet decisively adjudicate the great question of when and how far the federal government have made the confederates belligerents for all purposes, was decided by a bare majority of one judge. Says Mr. Justice Nelson, in giving the opinion of the minority of the court, at page 698:

"Upon the whole, after the most careful examination of this case which the pressure of other duties has admitted, I am compelled to the conclusion that *no civil war existed*

between this government and the States in insurrection, till recognized by the act of Congress of the 13th of July, 1861."

Is not this rather a damper, from his American voucher, for that notion of Historicus's, that the British government ought to have proclaimed neutrality and recognition of belligerency at the earliest possible moment after the issue of the President's blockade manifesto, say on the very same day, the 19th of April, 1861, if it had been possible to know of it by the Atlantic telegraph being then in operation?

Again Historicus says:

"The North created belligerent rights in both parties by making war upon the South."

Perhaps most of his readers will accept this statement as intended for literal fact. If so, a grosser misrepresentation could not be made. The attack on Fort Sumter—the most ungallant and unrighteous challenge to combat that ever roused a free people to the defense of its government—must be understood, even by the shortest memoried Englishmen, as a confederate and not a Union stroke of war. I am willing to concede that Historicus might not have intended to turn this great fact in the world's history wrong side out; but, without this correction, I fear that very many of his literal minded readers would understand it otherwise; and I submit that he is therefore reprehensible for something worse than mere literary carelessness.

Another of the Times's publicist's misstatements, bearing upon the main issue which I have all along been discussing, is, that even Mr. Adams, the American minister, when he arrived in England, felt no sense of grievance at the hasty action of the English government in issuing the proclamation of neutrality and recognizing confederate belligerency, because he both ought to have been, and therefore doubtless was, prepared for it.

Historicus attempts to shape it as if the grievance lay in the want of proper personal consideration for the American minister, in not waiting for his expected arrival. But Mr. Adams, I venture to assume, felt the wrong, if it were such, on his country's account, not his own. It was the minister of the United States who ought to have been waited for, not Mr. Adams. Now, will Historicus dare assert that the American minister, as a matter of fact, was not both surprised and aggrieved by the haste with which the Queen's proclamation was got out, in anticipation of his reaching Liverpool? If this is his intimation, let us see if it is not a most unfounded one.

I have already quoted a part of Mr. Adams's first impressions of English action and opinion in his dispatch to his government, giving an account of his first interview with the British foreign secretary. I quoted the dispatch, it will be recollected, *apropos* of Lord Russell's explanation of the motives of the Queen's proclamation. I now recur again to the same document to see whether the American minister had any complaint to make at that time in regard to the circumstances under which the British government precipitated belligerent recognition.

I quote from the Diplomatic Correspondence accompanying the President's message, &c., for 1862, p. 92:*

[I told Earl Russell in this interview of May 18] "that I must be permitted to express the great regret I had felt on learning the decision to issue the Queen's proclamation which at once raised the insurgents to a level of a belligerent state, and still more the language used in regard to it by her Majesty's ministers in both houses of Parliament, before and since. * * * [I said further] I must be permitted frankly to remark that the action taken seemed at least to my mind a little more rapid than was absolutely called for by the occasion. * * * It did seem to me, therefore, as if a little more time might have been taken to form a more complete estimate of the relative force of the contending parties, and of the probabilities of any long-drawn issue. And I did not doubt that the view taken by me would be that substantially taken both by the government and the people of the United States. They would inevitably infer the existence of an intention, more or less marked, to extend the struggle. * * * I said this with regret, as my own feelings had been and were of the most friendly nature."

Nearly a month later, in a dispatch to his government, dated June 14, Mr. Adams gives an account of a further discussion of the same subject, when the first excitement of surprise might be supposed to have somewhat worn off:

"I next approached the most delicate portion of my task. I descanted upon the irritation produced in America by the Queen's proclamation, upon the construction almost universally given to it, as designed to aid the insurgents by raising them to the rank of a belligerent state. * * * I ventured to repeat my regret that the proclamation had been so hastily issued, and adverted to the fact that it seemed contrary to the agreement, said to have been proposed by Mr. Dallas and concurred in by his lordship, to postpone all action until I should arrive possessed with all the views of the new administration. * * * Our objection to this act (the proclamation) was that it was practically not an act of neutrality. It had depressed the spirits of the friends of the government. It had raised the courage of the insurgents. We construed it as adverse, because we could not see the necessity of such immediate haste. These people were not a navigating people. They had not a ship on the ocean, &c."

* See page 183, Vol. I, of this compilation.

The diplomatic correspondence of the American minister with his government at this period is full of language like the above on the part of Mr. Adams. How, in view of it, (and of course he has at some time read it,) Historicus can assert that Mr. Adams neither felt aggrieved nor had a right to feel aggrieved at the haste with which the British government acted—how can he still more dogmatically assert, as he does at the earlier point of his article already noticed, “that nothing has ever so much astonished him as to find that on either side of the Atlantic any man of ordinary intelligence and education should be capable of advancing or entertaining for an instant such a complaint as that of the premature concession of belligerent rights to the South by Great Britain”—is to me not less a matter of mystery than of regret.

Mr. Adams is certainly a person of “ordinary intelligence and education,” even by Historicus’s own showing. Does not *he* complain of it? And has he not continued to complain of it—earnestly and persistently—down to the present moment of his official connection with the British government? Has not Historicus himself devoted a long forensic of three columns of the Times, as recently ago as last December, to proving that President Lincoln and his advisers, Secretary Seward and Senator Sumner, were in the wrong in adhering to this error—“querulous complaint” he called it—for three years and upwards, because the Artigas precedent of the American government made against it? Have these eminent persons—(alas! that the great and good President, who so amply filled out the perfect character of a Christian ruler in “loving mercy, dealing justly, and walking humbly before his God,” is no longer with us to be quoted as a living authority, and that our sagacious, patriotic, and peace-seeking Secretary of State will perhaps have been maimed for future usefulness by the assassin’s knife!)—have the survivors of these eminent persons neither education nor intelligence to entitle them to a moment’s mention?

I need not refer to other Americans, official or unofficial, who have shared and still continue to share in this “querulous complaint;” for if Historicus has never taken note of the acknowledged mouth-pieces of the American government, its President, its Secretary of State, and its minister to England, neither will he listen though I should produce the whole American people in testimony against him.

My only mystery is, how any one, even a correspondent of the London Times of three years’ standing, should have the hardihood to throw out such bold and unwarranted misstatements as the above, supposing the object even to be the annihilation of an opponent as odious as Mr. Bright. My regret is, that one whose influence with Englishmen has hitherto been so deservedly potent in many particulars should run the risk of having it so largely impaired for the future by having any one examine and verify the reckless assertions and the unfounded reasoning which make up the staple of this late communication.

The last observation which I shall have to make upon Historicus’s paper relates rather to its general tone, and the strain with which he rounds its swelling peroration, than to any distinct assertion of fact or enunciation of a proposition of law. It seems worth while to notice this tone or strain, because several eminent Englishmen, who have taken a prominent part of late in parliamentary discussions upon American affairs, and particularly the attorney general, Sir Roundell Palmer, whom Historicus on the present occasion seems to be imitating, have fallen into a habit of wondering at American “irritation” when things are said or done which are (erroneously) alleged by the speaker to be said or done after American fashion, and then attempting to soothe the so-called irritation by applying to it what may be called an *American blister*. Thus the attorney general wonders at our irritation at the English government’s following American precedents of neutrality, he all the while misquoting or misapplying those precedents, and assuming a better acquaintance with them than he is willing to allow to the Americans themselves.

On the present occasion, Historicus is attempting to soothe our “irritation” at the hasty recognition of rebel belligerency—a matter which, considering how hardly it has pressed upon us in vital particulars for the last four years, I think the world must give us credit for having borne with at least tolerable equanimity—with the following *international blister*.

Says Historicus:

“I am too well aware of the unhappy irritation which exists on the subject [of recognition of the rebels] in the public mind of America not to desire to offer the smallest contribution toward its removal.” * * * “Unhappily, there are too many persons on both sides of the Atlantic who indulge themselves in the wicked and dangerous amusement of inflaming passions which they ought to soothe.” * * * “My ambition is of quite another sort. I desire, by a recourse to those fixed and ascertained principles of law and maxims of justice which are enshrined in the records of nations and the conscience of mankind as the perpetual arbiters of truth and of peace, to remonstrate against an unreasonable anger and an unjust animosity. Surely, sir, these evil tongues,

* Since the publication of this last allusion, though not until within two days past, it will have rejoiced my American readers to see Mr. Secretary Seward’s name again attached to American state papers.

which are like a sharp sword, may rest sated with the blood which they have helped to [make!] flow. *Sat prata biberunt.*"

All of which I venture to call the quintessence of cant; only equalled by Lord Russell's declaring to his envoy at the American seat of government, Lord Lyons, on the 6th day of May, 1861, how deeply he deplored the disruption of the American republic, and that "no expression of regret you may employ at the present deplorable state of affairs will too strongly declare the feelings with which her Majesty's government contemplate all the evils which cannot fail to result from it;" and yet leading off to the world (the tidings of the attack on Sumter being then less than ten days old) with the announcement that "the late Union" "has separated into distinct confederacies," and, "the government of the southern portion (having) duly constituted itself," her Majesty's government "feel that they cannot question the right of the southern States to claim to be recognized as a belligerent, and, as such, invested with all the rights and prerogatives of a belligerent"—and "her Majesty's government do not wish you to make any mystery of that [this] view!" That is, "the civil war," as he calls it, having so far lasted ten days, he instructs his envoy "to make no mystery" of telling the government to which he is accredited that its supremacy has gone to pieces, and that he shall henceforth consider himself minister plenipotentiary to "the late Union!"

Great affection, that, for the ally "with whom her Majesty's government have at all times sought to cultivate the most friendly relations!" And quite of a piece with that friendly declaration made by the same organ of her Majesty's government in the House of Lords, as lately as April 29th, 1864, when he said, "for my part, I have never been able to feel much sympathy with either of the contending republics, the United States or the Confederate States!"—very much in the sense in which the affectionate wife looked on to see her husband grappling with the bear, coolly remarking that she did not care a straw which beat.

But Historicus feels bound to denounce those who make "an amusement" of saying irritating things, and desires to enter his protest against "an unreasonable anger." If he had felt bound to denounce those who make a business of saying irritating things, one would think that he must have hit hard at his great political exemplar and leader, the foreign secretary. At any rate, one would think that it would be hard to find a better illustration of irritating, either on principle or else for amusement, than is furnished by this letter of Earl Russell to the British envoy at Washington of May 6th. Of course, as Historicus would have us believe, the foreign secretary could not have meant to say anything irritating by that little piece of diplomatic effrontery and unfriendliness! Of course, it would have been a very "unreasonable anger" on the part of the American President and Secretary of State to have felt anything like resentment at a communication so full of ungenerous discouragement—not to say ill-timed impertinence—as that!

But leaving Earl Russell's insincere diplomacy in this connection to speak for itself, (and I do not doubt that by this time, regarding the present stage of our struggle, he is ready to admit that this dispatch of the 6th of May was a hasty and ill-advised communication on his part,) I pass on to notice the affected formalism, or—as I must call it—cant of his newspaper champion and expositor.

Historicus plants himself, then, upon those immutable principles of justice and maxims of law "which are enshrined in the records of nations and the conscience of mankind," and he abhors the evil example of slanderous tongues which help on bloodshed.

Now, if I understand the sum and substance of the learned publicist's late communication to the Times, wherein occurs this piece of bold and swelling rhetoric, its upshot may be reduced to these two propositions:

(1.) That no person on either side of the Atlantic, of ordinary intelligence or education, has ever for an instant advanced or entertained a complaint on this score of the hasty recognition of rebel belligerency by England; and,

(2.) That if ever any ignorant or half-educated American has been so foolish as to make such a complaint heretofore, or is so benighted as to propose to make it hereafter, then that he is advised to consider himself estopped and annihilated by this new discovery of the blockade theory.

As to the first of these propositions, if it is altogether untrue in fact, (notoriously and flagrantly untrue, even within Historicus's own knowledge,) as I have endeavored to suggest, rather than to take the trouble of attempting to prove at length, is it worth while to talk about soothing irritation, and affect the Christian virtue of peace-loving, when the soothing process consists in an attempt to force a lie down the American throat, and then to palm off upon the British public the notion that the American throat has swallowed it?

As to the second of these propositions, I hope that I have shown that Earl Russell himself, the highest and best authority, never thought it worth while, even down to September, 1863, to put forth the blockade theory of recognition as that upon which he acted.

But leaving Earl Russell aside, for the present matter in hand, I believe it has been made to appear that this new invention of a blockade as the *causa causans* of belligerent

recognition will not work, first, because *as a matter of fact* it had not been officially communicated to the British government that any American blockade had been notified—certainly not actually enforced—at the date of that government's decision to proclaim neutrality; and, secondly, because, *as a matter of law*, a manifesto of a proposed blockade is not such an interference with neutral commerce as can be taken hold of even by friendly powers, as a groundwork for their proclamation of a state of belligerency.

Is it with reference to this latter point, the legal effect of a blockade manifesto against insurrectionary subjects, that Historicus feels called upon to evoke against certain unnamed controversialists, ("*irritabile genus*,") the immutable principles of law and the eternal maxims of justice? If it is so, I should be glad to have him produce the first glimmering of a maxim, or the first element of a principle, whether juridical or diplomatic, or in whatever "record" "enshrined," controverting and subverting the view above contended for, that a blockade must be enforced, in order to become a belligerent act, justifying outside neutral powers in interfering between the parent government and its insurgent citizens. Even going the length of an *enforced blockade*, but enforced *against a rebellious province or district*, I have yet to find the case in public law, parallel to our own civil struggle, where neutral governments took it upon themselves, without waiting for an official notification of the terms of the blockade, to treat such a blockade as tantamount to a declaration of war, and thereupon proclaimed belligerency and belligerent equality. Can Historicus produce any such?

Is it not pure cant, then, for a juridical writer to treat a case of such new impression—even in the aspect of it sought to be enforced by the Times's champion of British neutrality—as one "enshrined in the records of nations," and calling for the denunciations due to stirrers-up of strife and thirsters for blood against those who venture to question the necessity or the fairness of the British state proceeding?

Rather than be in such haste to close up the flood-gates of strife—in bucolic allusion—and from the philanthropic motive of aiming only at international peace and good will, as Historicus so demonstratively professes, I would respectfully suggest to that eminent publicist, whether it would not have better comported with those professions, and have better served to soothe that American irritation which he so unnecessarily deprecates, if he had stated some one of the ten following propositions, which make up the groundwork of his discourse, more according to the fact than he has done. When he has made the just corrections upon these heads due to fair discussion, I can assure him that he will be better listened to on this side of the water upon the theme of cherishing a forgiving and a forgetting disposition. These are the propositions which I submit to his notice:

1. That no man of ordinary intelligence or education on either side of the Atlantic has been, or is now, capable of entertaining for an instant a complaint against England for the premature recognition of rebel belligerency.

2. That it was not a matter of choice, but of necessity, that the Queen should issue her proclamation of neutrality, and without an instant's delay.

3. That a dispatch received the 10th day of May, 1861, was the groundwork of action that took place on the 6th.

4. That if the proclamation of neutrality had never been issued, British ship-builders might have equipped vessels of war equally for Charleston or New York; and Mr. Laird might have fitted out five hundred Alabamas for the South without interference.

5. That President Lincoln's proclamation, like that of the Queen, recited that "hostilities had unhappily commenced."

6. That the Queen's proclamation was a domestic document, affecting the position of the Queen's subjects alone, and not in any way interfering with the affairs of other nations.

7. That the crew of the Savannah were prosecuted for piracy under the law of nations, but that Judge Nelson charged the jury that the accusation would not hold; and that the American judges [have held] in this very conflict that by the law of nations a southern privateer could not be treated as a pirate when exercising force against us.

8. That the North created belligerent rights in both parties by making war upon the South.

9. That Mr. Adams neither felt aggrieved, nor ought to have felt aggrieved, at the issuing of the Queen's proclamation on the morning of his arrival.

10. That it is a principle enshrined in the records of nations, that when a government proclaims a prospective blockade against rebellious subjects, other nations are not only entitled but required to declare those rebellious subjects belligerents, entitled to all the rights and privileges thereto pertaining, though those subjects are only known to have taken up arms on land less than ten days ago, and though they have not as yet the first ship or sailor afloat on the sea, and have no reasonable hope of making any demonstration amounting to organized marine warfare for months to come, unless by the aid of other (so-called) neutral powers.

IV.—THE RECOGNITION OF CONFEDERATE BELLIGERENCY NOT A BY-GONE, BUT A CONTINUING REALITY.

I have thus, as I hope, fairly met and disposed of the new case set up by Earl Russell, and promoted by his champion of the Times with such an extraordinary course of advocacy as the above. But it may be asked of the writer, why take such pains, yourself, to answer a point so far in the background of the past? Is it not a by-gone which may as well be let alone?

To this I have two answers:

(1.) That if the matter is of consequence enough to be resuscitated by as veteran a statesman and as practiced a diplomatist as Earl Russell—to say nothing about his calling upon the London Times and its juridical contributor to furnish him with a platform whence to put forth his parliamentary dogma to the world—it is of consequence enough for some American to follow on in the discussion, and see that the truth is kept in sight.

(2.) That this point of premature recognition is not a by-gone, but a question of to-day, in the sense of its being the initiative of a policy which England has adhered to for the past four years, and which at this moment, so far as we know, she still persists in, namely, of treating our rebellious, government-defying, slave-clutching and world-condemning secessionists, as forming as respectable a government as the inheritors of the American Constitution and the rightful representatives of the labors and principles of Washington.

Does any one say of this latter point that it is nothing to have put us on a level with slaveholding anarchists *four years ago*, because the policy has been persisted in down to the present hour? I ask if that disposes of the question whether the motive of those who thus at the outset of the rebellion inaugurated a policy which they fully knew would lift the insurgents into the rank of a belligerent power, "with all the rights and prerogatives thereto pertaining," was friendly or otherwise; or whether, as is now contended, there was an overruling necessity which deprived them of all volition in the matter, and left them "no course but one to pursue." On the contrary, if that policy was unfriendly and unnecessary then, is it not likely to have been persisted in since from the same unfriendly and unjustifiable motives?

But I have a more important reason to urge to my objector. Who are those among our statesmen best calculated to estimate the grave significance and practical moment of this measure of rebel recognition, but those who have had the responsibility of suppressing the rebellion thrown upon them from the outset—those who stood in the breach when recognition was first promulgated, and who to this hour have been watching day by day its effect and bearing upon the shifting scenes of the contest? And what opinion have these official guardians of the public interest upon the bearing of that policy which was proclaimed in the British House of Commons on the 6th day of May, 1861? What opinion did the late President, do our present Secretary of State, our foreign ministers—especially Mr. Adams, who has stood in the hardest spot of the diplomatic battle—the members of the congressional Committee on Foreign Relations, and particularly its accomplished chairman on the part of the Senate—what opinion, I ask, do all these representatives of the republic hold upon this question of premature recognition? If they all agree, as I believe I am warranted in saying they do, that the question was (and therefore still is) one of the very most important with which they have had to deal, then I believe no labor is misplaced which tries to uphold and promote the just merits of a different policy which they insist ought to have been adopted at the outset of our struggle, and which must be reinstated in our favor at the first moment when we shall be in a condition to enforce our just rights of national respect.

What England calls neutrality, is, I submit, as if a ruffian should knock my hat off in the street, and when I undertake to repossess myself of it, a blustering bystander should step up and say, "Fair play, gentlemen; this is a fair fight; you are both equals; it makes no difference to whom the hat belongs; I mean to see one treated as well as the other; I know no ruffian nor hat-owner in such a case as this; perfect neutrality consists in treating you both perfectly alike; and I mean to act in that magnanimous spirit till I see who gets the hat upon his head. Then, *finis coronat opus*; and I shall take off my own hat to the victor."

Shame, I say, upon such so-called neutrality! Shame upon the policy which set up Jefferson Davis for as rightful a belligerent as Abraham Lincoln, and which to the end of the chapter has insisted upon extending to the former as much of the rightful consideration due from the civilized world in that character as has been paid in that behalf to the latter. If there is no difference between them—if there was no appreciable difference between them—which should have prevented that "investing the former with all the rights and privileges belonging to a belligerent," spoken of by Earl Russell at the outset of the rebellion, then my essay is quite superfluous; I concede that the recognition of rebel belligerency is quite a by-gone matter, and that the foreign secretary has taken unnecessary pains to vindicate his government.

APPENDIX.—COMMUNICATION OF HISTORICUS TO THE LONDON TIMES OF MARCH 22, 1865.

THE NEUTRALITY OF ENGLAND.

To the Editor of the Times :

SIR: When Mr. Bright undertakes to draw up a bill of indictment against England we may rest assured that nothing will be omitted which may put his own country in the wrong in the eyes of mankind. Accordingly his speech on Monday last is a complete repertory of the grievances against Great Britain which are the stock in trade of some American journalists and of some American politicians.

It would have been surprising in this encyclopædia of the wrongs of America, if Mr. Bright had omitted to advance the complaint of the "premature concession of belligerent rights" to the South by Great Britain. I confess that nothing has ever so much astonished me as to find that on either side of the Atlantic any man of ordinary intelligence and education should be capable of advancing or entertaining for an instant such a complaint. Mr. Bright is pleased to say, with lofty scorn at the conclusion of his tirade on this topic, "I will not argue this question further, as to do so would be simply to depreciate the intellect of the honorable gentlemen listening to me." I quite concur with Mr. Bright that the question is one which hardly admits of argument, but exactly in the opposite sense to that in which he comprehends it. While you have permitted me to endeavor to elucidate some of the more obscure and difficult questions of international dispute to which this unhappy contest has given rise, I have never yet thought it worth while to expound at any length the futility of a complaint which ought to be self-evident to any man who understands the very first elements either of law or of politics. However, when such stuff as this can be gravely advanced by a person of Mr. Bright's importance in the presence of the English Parliament, a demonstration of the full absurdity of this grievance may be useful, if not necessary.

I must, therefore, ask the pardon of your readers while I proceed to explain why, on the breaking out of the civil war between the northern and the southern States of America, it was a matter not of choice but of necessity that the Queen of England should issue a proclamation of neutrality to her subjects, and that that proclamation should be issued without one single instant's delay.

Let us look at the situation of affairs at the moment when the proclamation of neutrality was issued by the Queen, on the 13th of May, 1861. The material documents necessary to the understanding of this matter will be found in a paper presented to Parliament in 1862, (entitled "North America, No. 1.") At page 23 (No. 31)* will be found a letter of Lord Lyons to Lord J. Russell, dated Washington, April 22, 1861, and received May 10, 1861. That letter is to the following effect:

"I have the honor to inclose copies of a proclamation of the president of the southern confederacy, inviting application for letters of marque, and also a proclamation of the President of the United States, declaring that southern privateers will be treated, as pirates, and announcing a blockade of the southern ports

"I lost no time in taking measures to communicate the contents of these proclamations as fast as possible, both by telegraph and post, to Rear-Admiral Sir Alexander Milne. The subsequent interruption of communication with the North has prevented my learning how far my measures were successful. I understand that some alarm is felt in the North respecting the southern privateers. But it must be supposed that the navy of the United States will suffice to arrest their operations. If these privateers, however, make any head in the Gulf of Mexico, it may, perhaps, be advisable that a British squadron should be sent there to insure the safety of British merchant vessels."

Now, let any man of common sense consider what was the immediate duty of a government charged with the interests of British subjects all over the world on the receipt of such a dispatch. On the one hand, the northern government had declared a blockade of the southern ports; that is to say, it had assumed to itself a right as against neutral commerce which could only be justified by the existence of a state of legitimate warfare. The date of the proclamation of blockade was April 19, 1861. In virtue of this proclamation, the northern government, by the law of nations, became entitled to search English merchant vessels in every part of the high seas, to divert them from their original destination, and to confiscate the vessels and their cargoes. If a state of legitimate war did not exist, such action on the part of the northern government would have been unlawful, and would have been a just cause of war on the part of England, against whom such a course would in such case have been pursued without justification. The proclamation of blockade of the 19th of April was therefore either a declaration of war against the South, or it was a cause of war on the part of all neutral nations against whom it should be put in force. From that dilemma there is no escape. So far, as regards the position of the northern government, as brought to the notice of the English cabinet on May 10, 1861.

Now let us see what was our situation with respect to the southern States. The proclamation of Mr. Jefferson Davis, authorizing the issue of letters of marque, was dated

* See Vol. I, p. 18, of this compilation.

April 17, 1861. The English government were consequently advertised that the high seas were about to be covered by armed vessels, who, under the color of a commission, claimed to exercise against neutrals the rights of warfare—that is, claimed to stop and to search English merchant vessels, to capture them, and to carry them into their ports for adjudication, and to condemn them in case they had on board contraband of war. Nor was this all. If legitimate war existed, the penalties of the foreign enlistment act came into operation. If no such war existed, then the shipbuilders might equip, arm, and dispatch vessels of war equally to New York and to Charleston. English subjects might enlist and take service in the forces of either party. Mr. Bright aspires to the part of the champion of the mercantile interests of Great Britain. I would venture to ask him whether it was compatible with the duty of the English government to leave them for a single instant in doubt as to their real situation in respect to the condition of things which had arisen in America? Was an English merchantman, sailing peaceably in pursuance of his ordinary trade, to be left in ignorance whether an armed vessel which overhauled and captured him was regarded by his own government in the light of a pirate committing a robbery on the high seas, or whether it was a lawful belligerent exercising the recognized rights of war? What was to be the position of the English navy, who are posted in every corner of the habitable globe, to protect, by their presence, and if necessary to vindicate by their arms, the security of our mercantile marine? Were they or were they not to be informed whether they were to “sink, burn, and destroy” as pirates, or to respect as lawful belligerents the cruisers of either party who exercised against our merchantmen those acts of force which the rights of war alone could justify? No wonder that Lord Lyons thought it necessary to strain every nerve to give Sir A. Milne the earliest intelligence of the state of affairs. I am in [put it to] the judgment of every man, whether he be in England or in America, who deserves the name of a statesman or of a jurist, whether, if the English government, after the receipt of the dispatch of Lord Lyons, should have interposed an instant's unnecessary delay in declaring to the subjects of the Queen their rights and their liabilities arising out of the conflict in America, would not have been guilty of the most grave dereliction of the duty which they owe to the Crown and to the country.

The English government knew their duty, and they did it. Accordingly, on the 13th of May, 1861, the Queen's proclamation was issued. If there is anything to be regretted, it is only that the forms necessary for publishing such a document should have made a delay of three days necessary, otherwise it ought to have been issued the very day that Lord Lyons' dispatch was received; and if the Atlantic telegraph had been complete it should have been issued on April 19, the day on which President Lincoln's proclamation of blockade was put forth.

Now, what was the purport of the Queen's proclamation of May 13, 1861? I will venture to say that Mr. Bright has never read it, or if he has, he has certainly not understood it. The Queen's proclamation was neither more nor less than a warning to her subjects that a state of things had arisen which seriously affected their interests, and which altered their existing rights and their liabilities, and directed them how to act thereupon. It began by stating, “Whereas we are happily at peace with all sovereigns, states, and powers.” It then proceeded, “Whereas hostilities have unhappily commenced between the government of the United States of America and certain States styling themselves the Confederate States of America;” a statement precisely in accordance with the proclamation of President Lincoln, which had issued these words previously, and which assumed the belligerent right of blockade. It goes on, “Whereas we, being at peace with the government of the United States, have declared our royal determination to maintain a strict and impartial neutrality in the contest between the said contending parties.” Then it recites the foreign enlistment act, which is only operative in the event of hostilities existing abroad, and warns the subjects of the realm to observe its prohibitions and avoid its penalties; and it concludes by advertising the Queen's subjects that if they engage in breaking a blockade established by either party, or by carrying contraband to either party, they will be abandoned to the penal consequences imposed by the law of nations, and will forfeit all right to the protection of the Crown.

Such is the purport of the Queen's proclamation. It will be seen that in its nature it is nothing more nor less than a domestic document affecting the position of the Queen's subjects alone, and not in any way interfering with the affairs of other nations. It is of the highest importance clearly to understand the true character of this document. In loose and inaccurate parlance we hear it said that in the proclamation of neutrality the Queen's government *conferred* upon or *conceded* to the Confederate States belligerent rights. It did nothing at all of the sort. The Confederate States had belligerent rights by the mere fact of being at war. They acquired these rights immediately that a state of hostilities arose by the North going to war with them, or their going to war with the North. Their title to belligerent rights was derived, not from the concession of any foreign power, but from the established code of the law of nations. We did not confer upon, or concede to, them the right to go to war. They went to war of their own will and pleasure, and from the moment they did so the enjoyment of

belligerent rights accrued to them as a matter of course. They were rights which we had neither the power to confer nor to withhold. We had no option or election in the matter at all. All that the proclamation of neutrality did was to inform the subjects of the Queen what were the consequences to them of a condition of things over which the English government had no sort of control.

To make this perfectly clear, just let us consider what would have been the state of things if the English government had not issued the proclamation of neutrality. The state of hostilities in America would have existed just the same; either party would have claimed and exercised the rights of war against the other and against neutral governments none the less. The North would have searched our vessels, enforced the blockade, and captured contraband. The southern cruisers would have done the same. Their rights in these respects were not created by the Queen's proclamation, and would not have been lessened by its absence. What were we then to do? Were we to hide our heads in the sand, like the ostrich, and not recognize a state of things which existed, and would continue to exist, whether we recognized it or not?

Suppose the proclamation of neutrality not to have issued, what would have been the consequence? A confederate cruiser captures an English merchant vessel laden with arms destined for New York; in what light is the cruiser to be regarded, and how is she to be treated by our government and our courts? An armed vessel exercising force against the ship of a foreign state on the high seas must be one of three things—an enemy, a pirate, or a lawful belligerent. Was the southern cruiser to be treated by the English government as an enemy? On that supposition we should have been at war with the South. Is that what Mr. Bright desires? But, if she was not an enemy, was she a pirate? I will not condescend to argue such a question. It has been settled for more than three centuries. A people in revolt are entitled to all the rights of war against the sovereign, and, if to the rights of war against him, *a fortiori* against others. This matter and the reasons of it are admirably expounded in the well-known chapter of *Fattel*, (B. III, cap. 18, § 287-293.) Humanity and policy alike revolt at the idea of treating rebellion as piracy. The passions and folly of enraged and baffled governments may induce them to employ such menaces, but they cannot and dare not execute them. In that great landmark of English politics and English literature, Mr. Burke's letter to the sheriffs of Bristol, will be found the following passage, instinct with all the profound philosophy of a great political intellect:

"The persons who make a naval warfare upon us in consequence of the present troubles may be rebels; but to treat and call them pirates is confounding not only the natural distinction of things, but the order of crimes, which, whether by putting them from a higher part of the scale to the lower or from the lower to the higher, is never done without dangerously disordering the whole frame of jurisprudence. The general sense of mankind tells me that these offenses, which may possibly arise from mistaken virtue, are not in the class of infamous actions. If Lord Balmerino in the last rebellion had driven off the cattle of twenty clans I should have thought it would have been scandals and low juggle utterly unworthy of the manliness of our English judicature to have tried him for felony as a stealer of cows."

The northern government, it is true, threatened in the first instance to treat the southern privateers as pirates; but, even in Mr. Lincoln's proclamation, he does not venture to assert that they can be so treated under the law of nations, but only under the municipal laws of the United States. The case was brought to the test in the instance of the crew of the Savannah privateer, who were tried at New York in 1862, for piracy. The arguments are published at length in a report of the trial, for a copy of which I am indebted to the eminent lawyer, Mr. Evarts, who represented the United States government on that occasion. The judge charged the jury that the ship could not be regarded as a pirate under the law of nations. And the government could not get a jury to convict on a municipal statute.

In such a question the courts of law follow the action of the government. It is necessary for this, as well as for other reasons, that the government should declare its view to guide the courts of law. But the view of a government of a foreign country on such a question can only be governed by the law of nations, and we have the authority of the American judges in this very conflict that by the law of nations a southern privateer could not be treated as a pirate when exercising force against us. Well, then, if the southern cruisers could not be regarded as enemies, and could not be treated as pirates, we could only treat them as lawful belligerents. But if our government and our courts of law could only treat them as such, was it not of the most pressing and imminent importance that all the subjects of the realm should know that they were clothed—not by an act, but by the law of nations—with the rights against neutrals which belong to such a character?

But then, says Mr. Bright, "I don't dispute that you are right in acknowledging the South as belligerents, but you did it in too great a hurry—you might have waited a little longer." But why, in the name of common sense—why wait a single instant in a matter so urgently affecting the rights of every subject of the Crown? Why were the English merchantmen to wait to know whether they were to submit to be searched

and captured alike by the southern and the northern cruisers? Why were they to wait to know whether they might or might not carry arms and munitions of war in safety to New York or to New Orleans? Why were they to wait to know whether there was or was not a lawful blockade, and whether they might or might not sail in safety for Charleston or Mobile? Why were English ship-builders to wait to know whether they might or might not enter into contracts for the building of ships of war without exposing themselves to fine and imprisonment? Why were the courts of law to wait to know in what light they were to regard vessels or crews arraigned before them for forcible seizures at sea? Why were the admirals on all our stations abroad to wait to know in what manner they were to treat the cruisers of the North and of the South—whether they were to regard the ships of the former as marine trespassers exercising rights over our merchantmen, which could only be justified by a state of war, and whether they were to attack and destroy the southern privateers as pirates, or to respect them as lawful belligerents? And on what pretense, I should like to ask, were questions to us of such momentous importance to be kept in suspense? Because, forsooth, Mr. Dallas did not like to be troubled on business, and Mr. Adams had not yet arrived. In the name of common sense, why was the English government to wait in order to consult Mr. Adams as to notifying to the subjects of the Queen the consequences to them of a fact which Mr. Lincoln had proclaimed to the world in his declaration of blockade twenty-four days previously? If Mr. Adams must necessarily have assented to the propriety of the proclamation, why was it necessary to discuss the matter with him? But if he had protested against it, would it have been proper or possible in the English government to have paid any heed to his remonstrance? Mr. Bright complains of the unfriendly conduct of the English government, and the shock Mr. Adams must have received when “he arrived in London on May 13, and when he opened his newspaper the next morning he found it contained the proclamation of neutrality, and the acknowledgment of the belligerent rights of the South.” But why should Mr. Adams be shocked or surprised by the contents of his newspaper of May 13, 1861? He had arrived from America by the very mail which brought Lord Lyons’ dispatch and the several proclamations of President Lincoln and President Davis. The proclamation of the Queen conveyed no news to Mr. Adams. He had sought, no doubt, in his dispatch for Mr. Lincoln’s proclamation of April 19, which, in claiming the belligerent right of blockade for the North, in fact declared the belligerent rights of the South. He could have had no cause to complain that on May 13 the Queen should explain to her subjects the consequence to them of a state of things which its own chief had created and declared by his proclamation three weeks before. To make such a transaction a ground of complaint is really to reproduce the old fable of the wolf and the lamb drinking at the same stream. Sir, I do Mr. Adams (whose wise and prudent courtesy and equanimity has been of such signal service to his own country and to ours) the justice to believe that turbulent politicians on both sides of the Atlantic make an unauthorized use of his name when they represent him as having been treated with want of consideration in this transaction.

We acknowledge the belligerent rights of the South because the government of the United States, by making war upon the land, at once created and declared their rights as inherent in them. We acknowledged their rights because those rights existed, and existed entirely independently of any action of ours. We could have done no otherwise, even if we would. When a riot takes place in the street the neutral tradesman puts up his shutters. He acknowledges thereby the riot, it is true; but one party to the tumult has no right to complain that the tradesman either aggravates the riot or gives assistance thereby to his antagonist. It is a little too bad that he should at the same time be made to lose his custom, and also be abused for attempting to protect his property.

The North created belligerent rights in both parties by making war upon the South. The North have enjoyed their rights, and we have indorsed them. They have seized our merchantmen and crippled our trade, and they have had a right to do it. If the South had not had belligerent rights it could only be because there was no war. But if there was no war, then the North could have enforced no blockade, they could have seized no combatant, they could have made no prizes. English merchants might have traded as before to Charleston, and Wilmington, and Savannah, and Mobile, and New Orleans, with impunity. To have seized our ships would have been to make war on England. If there had been no war, Mr. Laird might have equipped for the South five hundred Alabamas without interference. This is what the North have gained. But war is a quarrel which necessarily requires two sides. In order to exercise belligerent rights yourself, you must have an antagonist, and that antagonist must have belligerent rights also. And yet it is this just and inevitable consequence of their own policy which the North seem disposed to lay at our doors, and to make a ground of complaint against us.

I must again apologize for expounding at this length a matter which to most of your readers will appear obvious and self-evident. But I am too well aware of the unhappy irritation which exists on the subject in the public mind of America not to desire to offer the smallest contribution towards its removal. Ignorance unfortunately is as fertile a

source of mischief as malevolence itself. Nothing can be regarded as trivial which either fosters or may tend to tranquilize the feelings of exasperation which agitate a proud and susceptible people. There are, unhappily, too many persons on both sides of the Atlantic who indulge themselves in the wicked and dangerous amusement of inflaming passions which they ought to soothe, and exasperating prejudices and misapprehensions which they ought to labor to remove. Sir, I do not envy these men the occupation they propose to themselves, nor the success which, alas! they too often achieve. My ambition is of quite another sort. I desire, by a recourse to those fixed and ascertained principles of law and maxims of justice, which are enshrined in the records of nations and the conscience of mankind, as the perpetual arbiters of truth and of peace, to remonstrate against an unreasonable anger and an unjust animosity. Surely, sir, these evil tongues, which are like a sharp sword, may rest sated with the blood they have helped [make?] to flow. *Sat prava biberunt.* Let us appeal from these grievance-mongers, who trade in fancied wrongs and unfounded injuries, to the reason, the good sense, the good humor, and the justice of a kindred nation, which "is bone of our bone and flesh of our flesh."

HISTORICUS.

TEMPLE, March 18.

[From the New York Times, March 16, 1868.]

BRITISH NEUTRALITY—HASTY RECOGNITION OF REBEL BELLIGERENCY AND OUR RIGHT TO COMPLAIN OF IT.

LETTER FROM GEORGE BEMIS, ESQ.

To the Editor of the New York Times:

I do not propose, under the caption above selected, to enter at large into the merits of the controversy about British neutrality now waged by the English publicists, some of whose discussions, I am glad to see, you have thought of consequence enough to reprint for American perusal. It is now as long ago as May 3, 1865, that I communicated an article to the Boston Daily Advertiser under this head, which, with a little expansion afterward, grew into a good sized pamphlet. In that article I went quite fully into the subject, treating of matters which I do not propose to revive on the present occasion. It seems to me that while the discussion is being carried on by Englishmen themselves, and particularly by such able and competent writers as Historicus on one side, and Mr. Westlake and Lord Hobart on the other, Americans may well stand aside and bid the controversy God-speed.

I will only say, in passing, thus much about the general merits of the debate as upheld on the part of Mr. Westlake and Lord Hobart, both of whom I welcome as new disputants in this field of practical discussion of the international law topics of the day, that their communications show both their respective authors, in my judgment, highly qualified to criticise and shape the pleadings involved in this great governmental issue of the Alabama question, a far higher qualification for its instructive discussion, in my estimation, than to be able to make a merely rhetorical or sensational declamation about it, whether orally or in print. Thus far, however, the American journals, (including your own,) I regret to see, have not thought fit to reprint Mr. Westlake's thoughtful juridical article contained in the London Daily News of January 24, a compliment not less justly deserved by its intrinsic merits than by the established reputation of its author as a writer on public law. As to my old antagonist, Historicus, as Mr. Harcourt is pleased to style myself, I have respectfully to remind him, if he is not more accurate in his general statement than in the particular allegation of his postscript, that I am now "commissioned to write in support of the policy of Mr. Seward." I must report of him as a writer altogether unworthy of credence. I neither have nor expect to hold any retainer for the Secretary of State, nor for any other department of the government, nor do I write with hope or expectation of compensation of any kind, public or private. My essays on international topics, poor as perhaps they are at their best estate, are at least unpaid for.

But to the purpose of my communication. I take up my pen to treat, and, as I hope to dispose of the single important point raised by Historicus, among others, in his late discussion with Lord Hobart, which forms the chief subject of his rejoinder to Lord Hobart of January 24, viz: Whether British neutrality was the natural sequence and inevitable consequence of the prior existence of the American proclamation of blockade, or whether, as Lord Hobart insists, (following the lead of my own pamphlet of May, 1865, as Historicus charges,) the British government had in fact no official knowledge of the American manifesto, when they took the precipitate and unprecedented step of raising the confederate rebels to the status of a belligerent power.

I am greatly obliged to Historicus for again giving prominence to this point, over

some supposed detection of flaws in Mr. Seward's early diplomatic pleading in reference to the blockade. It is no part of my present purpose to explain away or attempt to reconcile some of the Secretary of State's apparently conflicting phraseology on this head. Lord Hobart's suggestion, that the *substance* of Mr. Seward's international theory, however, was throughout pursued with consistent uniformity, and that it is not worth while to stop and closely criticise his passing expressions about "neutrals" and "civil war," and the like, mainly disposes of the gravamen of Historicus's imputation. I hasten on to answer the new substantive allegation—revived again by Historicus from the old discussion of 1865 at the first favorable opportunity—that the United States have nobody to complain of for the institution of rebel belligerency, and of its counterpart British neutrality, but themselves. This position I hope now to settle once for all.

Since the publication of the pamphlet of May, 1865, already referred to, I happen to have come into possession of a piece of diplomatic evidence, which demonstrates, on the authority of the British Foreign Office itself, as I understand it, that no official notice of President Lincoln's proclamation of blockade reached the British government till *after* the issue of Queen Victoria's proclamation of neutrality. That is, I am prepared to prove that *while the British proclamation passed the privy council and received the royal signature on the 13th day of May, 1861, the official notification of the American blockade did not reach the Foreign Office till May 14.*

I annex the document, now for the first time reprinted in this country, which I copy from British Parliamentary Papers, for 1861, (vol. lxy, p. 583,) constituting the Blue Book, entitled "Correspondence with the United States Government Respecting Blockade." I only hope that the document may by this time have come to Lord Hobart's knowledge, for the purpose of replying to Historicus, as I feel quite sure it has, long since, to the knowledge of Lord Russell and Historicus, both of whom, I am sorry to believe, have for some time been presuming upon American lack of acquaintance with it. But I reserve for further comment Earl Russell's and Historicus's remarkable reticence as to this important state paper. Here is the document itself:

"No. 1.

"*Lord Lyons to Lord J. Russell, (received May 14.)*

"[Extract.]

"WASHINGTON, April 27, 1861.

"I have the honor to transmit to your lordship herewith a copy of a note which I have received to-day from the Secretary of State of the United States, communicating to me printed copies of the President's proclamation of the 19th of April, declaring a blockade of the ports of the States of South Carolina, Georgia, Alabama, Florida, Louisiana, Mississippi, and Texas. I inclose two of those copies of the proclamation which were sent to me with the note.

"The Secretary of State further informs me, in the same note, that another proclamation has been signed by the President, establishing a blockade of the ports of the States of Virginia and North Carolina.

"I have, &c.,

"LYONS."

"[Inclosure in above.]

"*Mr. Seward to Lord Lyons,*

"DEPARTMENT OF STATE,

"Washington, April 27, 1861.

"The undersigned, Secretary of State of the United States, has the honor to communicate to Lord Lyons the accompanying printed copies of the President's proclamation of the 19th instant, declaring a blockade of the ports of the States of South Carolina, Georgia, Alabama, Florida, Mississippi, Louisiana, and Texas.

"The undersigned has the honor also to inform Lord Lyons that another proclamation has been signed by the President, and will be published to-morrow, establishing a blockade of the ports of Virginia and North Carolina.

"The undersigned, &c.,

"WILLIAM H. SEWARD.

("Inclosure of President Lincoln's proclamation of April 19, 1861.")

The attentive reader will doubtless have taken notice of the memorandum following the address of document No. 1, and preceding its date, which I have taken the liberty to capitalize thus: "RECEIVED MAY [FOURTEEN] 14." That memorandum on the original stands, to those conversant with the parliamentary publication by the British government of its foreign diplomatic dispatches, for the official indorsement by the

Foreign Office of the date at which the document to which it is prefixed first reaches the government in London. Thus, in this instance, this dispatch of Lord Lyons's of April 27, 1861, with its inclosure, is shown to have been received in Downing street "May 14," 1861.

Here, then, by this clerical indorsement of three words, made in the ordinary routine of business, at the moment of receiving the dispatch from the hands of the courier, is the voucher to all time that the British government did not wait to be officially notified of the proclamation of the American blockade, much less of the actual establishment of the blockade, before deciding upon their attitude toward the American struggle, but hurried out with their announcement of rebel belligerency and their own declaration of British neutrality twenty-four hours in advance of any such notification actually reaching them. The British government, to be sure, had several days earlier, viz: May 6, announced through Lord Russell, in Parliament, their intention to take this step; but here is proof positive of the actual consummation of that intention without waiting for any formal communication of the action of the United States as to the blockade in either particular. And it may be added to this statement of British precipitancy that this hurried haste to proclaim a state of war was demonstrated, notwithstanding that government had been already notified that an official notification of the proclamation of the United States blockade might be expected in London any moment.

And yet, in contravention of this great historical fact, which I am ready to believe had for the moment been overlooked by his lordship, as well as by his prompter Historicus, (who held forth to the same effect in the *Times* the day before,) Lord Russell made the deliberate and unqualified assertion in the British House of Lords on the 23d day of March, 1865, that British neutrality in the American struggle, as inaugurated by the Queen's proclamation of May 13, 1861, was the necessary constrained result of the prior proclamation by President Lincoln of the first American blockade of April 19, and that Lord Chancellor Campbell and the other law advisers of the Crown had given the Cabinet an opinion at that time, prior to May 6, 1861, that this latter step on the part of the United States government not only justified but necessitated the British manifesto. This declaration of the foreign secretary's, passing unchallenged and uncontradicted by any utterance on either side of the Atlantic for several weeks, became formalized into an accepted and very convenient dogma for the purposes of the ministry, and so was again affirmed with more confidence than before both by Earl Russell in the House of Lords, and by Lord Palmerston, the prime minister, in the House of Commons, on the night of May 15 following.

It was the communication in the *Boston Advertiser* of May 3, 1865, on "Hasty recognition of rebel belligerency," that constituted, so far as I am aware, the first denial of this position of the British ministry that ever appeared. That article only reached London a day or two after the debate of May 15 (last referred to) came off, and first set a-going, in a very private and limited sphere, a contradiction of the new doctrine, unfortunately not to the same extent and with the same satisfactory conclusiveness which it would have had if I had at that moment been aware of the existence of the dispatch marked "received May 14," before referred to.

As it was, I must confess that it was no little mortification that, long after the publication of my pamphlet in May, 1865, and long after Historicus, in October of that year, had attempted (as I must characterize it) to answer the *exposé* of dates there put together, and long after Lord Russell, in his official correspondence with Mr. Adams touching this same subject-matter, (I refer particularly to his letter to Mr. Adams, of August 30, 1865,) had pleaded *specialty* to these dates, I discovered that I had left out nearly half of my case through overlooking the important document which is now brought forward for the first time. I had failed to meet with that paper, partly through supposing that the British Blue Books for 1862 gave the whole of the parliamentary documents relating to our civil war up to that date, [the Blue Books for 1862, in fact, gave much earlier documents relating to the American civil war than this of April 27, 1861,] and partly through Historicus's own unfair citation (as I must consider it) of a prior dispatch of Lord Lyons to Lord Russell, of April 22, 1861, quoted by Historicus in his letter to the *Times* of March 22, 1865, already alluded to, and to which I shall again presently recur more at large.

I bespeak the reader's patience for a few minutes longer, if he begins to fear that I have in view only the correction of a narrow point in chronology, by the stress which I lay upon the precise dates of certain diplomatic communications. A few words more, and I believe he will be satisfied that the discussion connects itself with points of general interest and of current international importance.

Now, say the late British foreign secretary, Lord Russell, and his devoted though not always reliable champion, Historicus, to my *exposé* of the document marked "received May 14," in effect: "Why be so precise about dates and forms, when it is an acknowledged fact that the British ministry had some actual knowledge of the declared intention of the United States government to establish a blockade?" But what knowledge, and how much, I ask? That is just the point to be inquired into.

If, as the British government contend, (and they have never yet retracted their

assertion,) rebel recognition was an inevitable necessity, forced upon them by President Lincoln's first blockade proclamation, and that step was one, the consequences of which to us might be a prolongation of the civil war for years—to say nothing of the thousands of lives and the untold millions of treasure which it actually cost us—ought not at least these two things to have been ascertained about the American proclamation, before its constraining necessity was yielded to—first, that the British cabinet were in possession of the whole text of the American state paper; and, secondly, that what they had of it came duly vouched for under official forms, as the declared announcement by the United States of their solemn resolve?

Let us see what actual knowledge the Palmerston ministry had of the American blockade at the date of May 6, 1861, the date of Lord Russell's parliamentary announcement of the government's intent to acknowledge rebel belligerency, or even down to May 10, the date which his lordship afterward selected as the best on which to make a stand in justification of British recognition.

Says Historicus, rearguing the matter in his late paper of January 24, (Times of the 25th,) with all of his usual boldness, not to say recklessness of expression:

"The very terms of the proclamation of blockade of April 19, 1861, were published in the Times of May 4, 1861, nine days before the proclamation of neutrality was signed, and eleven days before it was published."

So far, Historicus, I have looked at the Times of May 4, 1861, and the obscure paragraph on its fifth page of that day, headed, "The Blockade of the Southern Ports," which must be the one referred to, as there is no other pretense of an American proclamation in that paper, and invite all interested in this discussion, if they have opportunity, to do the same. Having done so, I would next beg them to compare the paragraph there given with the authentic text of President Lincoln's blockade proclamation, as printed in the United States Statutes at Large, appendix to volume twelve, or in the Parliamentary Blue Book of 1861, as the inclosure to Lord Lyon's dispatch of April 27 of that year, before quoted. I would take the liberty to ask the favor of you, Mr. Editor, to reprint the two papers side by side, as an annex to this article, if I thought the capacity of your journal would permit of the necessary incumbrance.

As it is, will it be believed by my readers, who have not the time or opportunity to make the comparison suggested for themselves, and who are willing to take my word for the result instead, that the supposed reprint of "*the very terms*" of the blockade proclamation contains more than twenty errors of omission and interpolation—one of these omissions covering three paragraphs and ten entire lines; that the reprint altogether leaves out the belligerent characteristics of "*prize*" and "*piracy*"—the gist, as one would suppose, of belligerent recognition, if there is any belligerency about it; that it drops any mention of an intended enforcement of the "*revenue*" laws, which the genuine instrument sets forth as the justifying occasion of its own promulgation; and that, finally, it does not even purport to bear the official signatures of the President and Secretary of State of the United States as vouchers of a regular State paper? No wonder that the Times passed by such a poor apology for the text of so important a State paper as this for one day (the London dailies generally gave it on the 3d) and condemned it on the next to the most obscure corner of its sheet, in small type! No wonder, also, that when it finally printed it, it altogether omitted to give any credible source from which it had derived such an extraordinary document.

Is it upon such a poor piece of governmental authenticity as this that Lord Russell will say that he and his ministerial associates, after *legal* consultation, officially acted, when with so pronounced an emphasis they declared themselves called upon to recognize the rebels as a belligerent power, and "as such invested with all the rights and prerogatives of a belligerent;" and for four long years held the United States to the rigor of the game, as over a foreign public war, with all its accompanying responsibilities to foreign nations? Will Sir Roundell Palmer (the only survivor of the law-advisers of the Crown of that date, as I believe) acknowledge that it was upon this fine-print paragraph, in an almost unnoticeable corner of the Times, that he gave his opinion as a jurist and as a statesman that Great Britain was *required* to treat both parties in this civil strife, barely three weeks old, as equals?

And yet I venture to assert, with the greatest confidence, that, down to May 6, 1861, and even till May 10—twenty-one days after the actual publication of the full text of the President's proclamation in the Washington National Intelligencer of April 20, 1861—no other scrap of knowledge in reference to the true nature of that State paper, this imperfect telegraphic summary of the Times of the 4th, and of the other London papers of the 3d of May, was in the possession of the British government, or of any private person in the United Kingdom.

As this matter may appear somewhat surprising to any one who merely takes into account the mere lapse of time, between April 19 and May 10, it may be worth pausing a moment to clear it up. I have once before, however, gone quite fully into the subject, (in a note to page 6 of the pamphlet referred to,) and that explanation I am quite sure must at some time have met Historicus's eye, inasmuch as he refers to that pam-

phlet by way of reflection on Lord Hobart at a point only two lines before making that sweeping assertion about the accurate reprint of the Times, which I have just noticed.

In explanation, then, of its taking twenty-one days (between April 19 and May 10, 1861) for the full text of the American proclamation to reach London, and only then, after such an interval, in *newspaper form*, it is to be borne in mind that on the 19th of April occurred that interruption of communication between Washington and New York which followed the attack of the Baltimore mob upon the Massachusetts troops passing through that city to the defense of the capital, and which cut off all transmission of telegraphic and postal news to the northern cities for upwards of a week. On the morning of April 20, however, before the telegraph had finally ceased working, the agent of the Associated Press telegraphed to the leading newspapers of New York and other Atlantic cities what purported to be a summary or abstract of the proclamation then just issued. This summary contained just the imperfections, or substantially the same, with those specified in the reprint published in the Times of May 4, and went across the Atlantic by the steamer which reached Queenstown May 2.

Now between the 20th and the 27th of April, no other American newspaper besides the Washington Intelligencer, so far as I am aware, undertook to reprint the veritable and literal text of the President's proclamation of the 19th. Indeed, to this day, I doubt whether any other newspaper in the United States except the Intelligencer contains it. On or after the 27th of April, 1861, however, when the embargo on communication between Washington and New York had been removed, a dispatch from Lord Lyons, dated April 22, and containing a newspaper copy (doubtless the National Intelligencer) of the proclamation, went forward to the Foreign Office. It only reached the Foreign Office, however, on the 10th day of May, and is the dispatch which I erroneously supposed in my pamphlet of 1865 (p. 5)* to contain the officially-communicated copy of that document, and there so spoke of it. I was mainly misled into this mistake, as I think, by what I consider Historicus's uncandid quotation of this dispatch in his letter of March 22, 1865, which letter I commented on at large in the body of the pamphlet, and reprinted in full in the appendix. It was this letter, also, as I believe, which mainly led Lord Russell into his parliamentary declaration of March 23, 1865, above referred to, and which again led both Lord Russell and Lord Palmerston into their repetition of the same error, May 15, following.

As Historicus says, in his late letter of the 24th ultimo, that he writes "*to justify his own accuracy and fair dealing*," and as Lord Russell has been about as uncandid as Historicus in quoting this letter in his official communication on this subject to the United States, I beg again a moment's delay to expose the omission complained of and to connect it with the current line of my discussion.

Says Lord Lyons, in his letter of April 22, 1861, just referred to, (which reached the Foreign Office May 10, but only by means of a *special messenger* between Washington and New York, as I have heard,) after mentioning the fact of inclosing in that dispatch the President's first blockade proclamation:

"*I am informed that an official notification of the blockade will be sent to the foreign legations here in the course of the day.*" (Blue Book, 1862, North America, No. 1, p. 23.)

It was the omission in Historicus's letter (of March 18, 1865,) of this passage in italics, just cited, when he was apparently quoting the whole body of Lord Lyons's dispatch, which led me to believe that the copy of the proclamation mentioned by Lord Lyons as being inclosed in that dispatch must be an *officially communicated* copy, constituting the regular notification by the American Executive to the British government of the intended American blockade. Afterwards in reading over (in some other connection) the whole text of Lord Lyons's dispatch, I was put upon inquiry as to the "*official notification*" there expected, and found the subsequent genuine diplomatic notification in the collection of Parliamentary papers for 1861, volume 65, as before alluded to. For some reason or other it seems that the "*official notification*" did not take place "*in the course of the day*," as Lord Lyons anticipated, but was deferred till the 27th.

Now, I will not stop to consider Historicus's "*accuracy and fair dealing*" in omitting—I might say suppressing—such a paragraph as this, when the very question under consideration at that moment was the "*premature concession of belligerent rights*"—Historicus's object in that communication being to convict Mr. John Bright of trumping up an American grievance; but I pass on to notice an almost equal want of candor in the foreign secretary, in his dispatch to Mr. Adams of August 30, 1865, as already hinted at. Says his lordship, officially discussing this same subject of hasty recognition:

"The course of her Majesty's government followed the course of events in America.

"It appears by the Times of the 3d of May, 1861, that I stated in the House of Commons on the preceding day, (May 2,) her Majesty's government heard the other day that the Confederate States have issued letters of marque, and to-day we have heard that it is intended there shall be a blockade of all the ports of the southern States!

"On the 6th of May, I stated in the House of Commons the intention of the government, formed after due deliberation, to recognize the southern States as belligerents.

* See pp. 15, 16, *ante*.

"On the 10th of May I received a dispatch from Lord Lyons, making the following announcement: I have the honor to inclose copies of a proclamation of the president of the southern confederacy, inviting application for letters of marque; and also a proclamation of the President of the United States, declaring that southern privateers will be treated as pirates, and announcing a blockade of the southern ports!

"Thereupon the intention of her Majesty's government, previously announced, was carried into effect, and the proclamation of the 13th May, 1861, was issued."

No mention here of "*I am informed that an official notification of the blockade will be sent to the foreign legations here (Washington) in the course of the day;*" nor again of his (the foreign secretary's) receipt, four days later, of the official notification marked "*Received May 14!*" Had not his lordship, like myself, been put upon notice that the regular official communication of the President's blockade proclamation was to have been expected in London any day after "May 10;" or had he perchance been reading Historicus's quotation of Lord Lyons's dispatch of April 22, *with that paragraph left out?* If, on the other hand, statesman-like, Earl Russell contented himself with nothing short of the inspection of the original dispatches themselves, when he sat down to pen his important reply to Mr. Adams of August 30, 1865, from which I have just quoted, had not his lordship's attention unavoidably been turned by the full text of Lord Lyons's letter of April 22, (including the suppressed passage,) to the discovery of the fact that the copy there spoken of was not the officially communicated copy, and so been directed to Lord Lyons's later dispatch, dated April 27, wherein he found the veritable governmental notification inclosed, and whereon he found indorsed those inconvenient words and figures, "*Received May 14?*"

Did or did not Earl Russell come to a knowledge of this dispatch of April 27 in the way suggested; or (what is more probable) had he not a distinct and perfect recollection of its contents and of the date of the official receipt by himself of the first American proclamation of blockade, by the unaided exercise of memory, without reference to official dispatches or to any imperfect abstracts of them by newspaper correspondents? If he had not such knowledge, or did not care to possess himself of it, was he qualified to be her Majesty's principal secretary of state for foreign affairs? If he had such knowledge, was it exactly candid and ingenuous for him to say that "the course of her Majesty's government followed [the italics are mine] the course of events in America;" and then, after quoting from the dispatch of April 22, what he calls "a proclamation of the President of the United States, announcing a blockade of the southern ports," [the italics are here his lordship's,] to add "*Thereupon the intention of her Majesty's government was carried into effect*" and the neutrality proclamation issued? [The italics in the last paragraph are again my own.] I ask is it quite fair for Earl Russell to write history like this, unless he means to be understood that the proclamation to which he refers as inclosed in Lord Lyons's dispatch was only a newspaper copy of President Lincoln's state paper, and that upon that newspaper copy—"thereupon," in his lordship's phrase—*her Majesty's government proclaimed neutrality?*

I need not ask whether Earl Russell—veteran and able British foreign secretary, as he has been at various long periods of English history—is in the habit of practicing diplomacy upon intelligence gathered from the newspapers, nor whether, when it is a question of the due and legal establishment of a blockade by a foreign government, he is in the habit of searching the Times for such paragraphs as that which I have shown seems to satisfy Historicus's requirements. The "paper blockades" which Lord Russell has been accustomed to hear spoken of in his political life of half a century and upward, I fancy were never synonymous in his understanding with newspaper blockades. But must not his lordship concede that if "her Majesty's government thereupon carried into effect" their previously announced intention upon anything contained in Lord Lyons's dispatch of April 22, 1861, that, for the first time within his experience, the British government, speaking through his own words, had recognized the binding efficacy of a newspaper blockade? Or is Earl Russell prepared to add to the science of public law the new classification of: 1. *Blockades*; 2. *Paper blockades*; and 3. *Newspaper blockades*?

But if anything were wanting to show the difference between newspaper reports of a blockade and the necessary formalities attending the notification and recognition of one for governmental purposes, it is strikingly furnished by another diplomatic document, making part of this same Blue Book for 1861, containing the dispatch "received May 14." The document has never before been reprinted in this country, and will be read with curious interest by my readers, I think, as illustrative of the sharpness of the game to which British ministers and diplomatists held us accountable over the establishment of the blockade. The document which I am now about to quote follows on immediately after that "received May 14" at the next page of the Blue Book, and reached the Foreign Office "May 17." Its purport speaks for itself. I give so much as is appropriate to my purpose, taking again the liberty to emphasize a few lines by italics:

"[No. 2.]

"*Lord Lyons to Lord J. Russell. (Received May 17.)*

"WASHINGTON, May 2, 1861.

"MY LORD: I have the honor to inclose a copy of the note by which I acknowledged the receipt of Mr. Seward's note of the 27th ultimo, announcing the intention of this government to set on foot a blockade of the southern ports. I was careful so to word my note as to show that I accepted Mr. Seward's communication as an announcement of an intention to set on foot a blockade, not as a notification of the actual commencement of one. I believe that most of my colleagues made answers in the same sense.

"LYONS."

I subjoin Lord Lyons's note to Mr. Seward, carrying out the purpose indicated. I fear that not one in ten of my readers will be able to take the point of it, yet I beg them to try. There was a grip intended, however, and actually enforced. If the reader will be so good as to emphasize for himself the two words "will be" before "set on foot" in the middle of the letter, he will appreciate Lord Lyons's diplomacy.

"[Inclosure 1 in No. 2.]

"*Lord Lyons to Mr. Seward.*

"WASHINGTON, April 29, 1861.

"The undersigned, her Britannic Majesty's envoy extraordinary and minister plenipotentiary to the United States, has the honor to acknowledge the receipt of a note of the day before yesterday's date from the Secretary of State, communicating to him a proclamation which announces among other things that a blockade of the ports of South Carolina, Georgia, Alabama, Florida, Mississippi, Louisiana, and Texas, will be set on foot in pursuance of the law of the United States and the law of nations, and that for this purpose a competent force will be posted so as to prevent the entrance and exit of vessels.

The Secretary of State has, moreover, done the undersigned the honor to inform him in the same note that it is intended to set on foot also a blockade of the ports of Virginia and North Carolina.

"LYONS.

"HON. WILLIAM H. SEWARD, &c., &c."

Now can any one read over this simply-worded and yet bitingly-severe diplomatic communication and not feel persuaded that the agents of the British government, at the very moment of the first announcement of the American blockade, well understood and practiced on the strictness of the forms of the law of blockade? Is there any doubt that her Majesty's foreign secretary at London would have been as wary, in general, in accepting notification of the American proclamation of blockade as the British minister was at Washington, in the particular of its being only accepted "as an announcement of an intention to set on foot a blockade, not as a notification of the actual commencement of one?" Let us suppose that the case were reversed, and that for some reason or other the United States had been insisting, for their own advantage, that the British government had received actual notice of the proclamation of the American blockade at as early a day as May 4, and for this purpose were urging such an argument as that put forward by Lord Russell in his dispatch of August 13, 1865. What do my readers believe would have been the answer of the British foreign secretary to such a plea on the part of the American government? Do they believe that Lord Russell would have answered, "that the advisers of her Majesty's government had read the fine print republication by the Times of the American State paper, and were satisfied with its sufficiency?" Or "that her Majesty's ministry had sent them by somebody a National Intelligencer of April 20, with President Lincoln's proclamation set out at full length, and would therefore consider themselves duly notified?"

But I will not abuse my reader's patience with the further pursuit of such an inquiry. I leave it to his candid judgment whether, on the whole, Lord Russell must not be considered in all probability to have been fully cognizant of the date of the official receipt at the Foreign Office of the governmental notification of the American blockade on May 14, 1861, at the moment of penning the paragraphs which I have quoted from his dispatch of August 30, 1865; and whether with that knowledge he was not attempting to set forth an uncandid, not to say unfair, connection between British neutrality and the initiative step in the promulgation of the American blockade.

Of course I do not leave out of sight in my reproduction of Lord Lyons's note to Mr. Seward, (dispatch "No. 2, received May 17,") that here is proof positive that Lord Lyons at the very moment of receiving the official notification of the American proclamation, understood it to be only a declaration of an intent on the part of the United States government to establish a future blockade, and took care to signify that the British

authorities themselves would accept it. The actual establishment of the United States blockade, as I have taken pains to show in the pamphlet already referred to, did not occur at any point on the American coast till April 30, and in the great cotton ports of New Orleans and Mobile not till nearly a month later—May 28 and May 27.

Now, to turn the discussion to the reputation of a less important personage than the late British foreign secretary, will it be credited—not of Earl Russell, (about whom I can only speak inferentially as to his recurrence to the Blue Book of 1861, and his discovery therein of the memorandum “Received May 14,”) but of Historicus—that *he had just been all over these parliamentary papers of 1861 and was largely citing from them*, when he was making the assertion that “the very terms of the proclamation of blockade were published in the Times of May 4;” and adding that Lord Hobart was “*out-Sewarding Seward*,” in contending that the British government did not have actual notice of the American proclamation in advance of their own declaration of neutrality? Says Historicus in his article of January 21, (Times, 23:)

“On April 19 the President of the United States signed a proclamation of blockade. *This was communicated officially by Mr. Seward to Lord Lyons on April (twenty-seventh) 27.* [The italics are mine.] On that day a further proclamation was issued. On the 29th Lord Lyons had an interview with Mr. Seward, &c. On May 4, 1861, Lord Lyons writes to Lord Russell,” &c. [The letter in which Mr. Seward speaks of “public law,” “neutrals,” “belligerent,” of which Historicus makes so much account.]

All these dates and dispatches here referred to (and many more cited by Historicus might be added to the quotation) show the result of a careful study on his part of the Blue Book, which I have heretofore spoken of as having so unfortunately escaped my own attention. But who can doubt that the student who had discovered that the American blockade “*was officially communicated by Mr. Seward to Lord Lyons April twenty-seventh,*” had also discovered that the same official communication (as by the memorandum on that very dispatch) had been “*received*” at the Foreign Office “*May fourteenth*?” And yet this punctilious upholder of “his own accuracy and fair dealing” is attempting, two days later, to convince the world in general and Lord Hobart in particular, that there is no difference in law between a blockade notification communicated with all the formalities belonging to that highly technical procedure under the law of nations, and such a newspaper transcript as the Times’s reprint of May 4; and no difference is *fact* between the dates of May 3 and May 14, though he is well aware that the question of precipitate and unfriendly intervention in American affairs, constituting a national grievance and thought to be worthy of international arbitration, largely turns on the importance of those respective dates in regard to British action.

I will do Historicus the justice, however, to admit that I am fully aware that he defends belligerent recognition upon grounds ignoring the materiality of all dates whatsoever connected with it in the view, namely, that there was war in the United States when President Lincoln’s proclamation was in type, and almost before the ink was dry. To that I have to reply, in the first place, that the British government itself has never taken any such visionary and absurd position. On the contrary, it has done its best to set agoing the after-thought that the Crown lawyers had the United States proclamation before them for legal consideration when they advised, prior to May 6, 1861; that the proclamation not only justified but necessitated the British declaration of neutrality; an after-thought, afterward improved upon by Lord Russell, under date of August 30, 1865, when he informed Mr. Adams at that time that if the British government had not a legal notification of the blockade prior to May 13, 1861, they had at any rate a complete newspaper copy of it. A second answer to Historicus’s visionary vagary might well be that according to one of the first principles of international law, as codified in the declaration of Paris, “blockades to be binding must be effective.” Pray, was there any effective blockade of Chesapeake Bay, much less of New Orleans, when Abraham Lincoln had affixed his signature to the proclamation of April 19, 1861?

But I will not pursue this point as worthy of serious notice. I will only add that it is quite an advance upon Historicus’s other position, that when intelligence of a blockade proclamation is actually received by the British Foreign Office, it makes no difference whether it comes from the miscellaneous news and small-item department of the Times, or comes officially verified by the great seal of a sovereign power in the regular course of national communications.

I sum up in brief what I hope are the conclusions established by this paper:

1. That if the American proclamation of blockade is invoked as the justifying excuse for British neutrality, it will be found that the British government made such haste to recognize rebel belligerency that it announced its determination to take that step eight days, at least, before being officially notified that any American blockade was intended, much less that one was actually set on foot.

2. That at the date of such announcement, viz, May 6, 1861, all that that government knew of the terms of the American proclamation was embraced in a newspaper paragraph or telegraphic summary, which omitted any mention of “prize,” “piracy,” or the other so-called belligerent characteristics of the genuine document, and which, besides,

contained some twenty other errors of addition and variation, as well substantial as verbal.

3. That the formal publication of the British proclamation of neutrality of May 13, 1861, was hurried out twenty-four hours in advance of the official receipt of President Lincoln's first blockade proclamation, and that, too, when the British government had been informed that the customary diplomatic communication of the American manifesto might at any moment be expected.

4. That the British foreign secretary, as well as the British prime minister, afterward attempted an unfounded apology for this precipitancy, when, in the spring of 1865, they set up the pretense that British neutrality was the natural and unavoidable consequence of the prior announcement by the United States of their purposed blockade, and when, as Earl Russell even asserted, the Crown lawyers based their opinion of the existence of a state of war on the fact of that announcement.

5. That Earl Russell, down to as late a day as August 30, 1865, and after that apology had been questioned, sought to give currency to the same sort of justification, when he quoted the receipt of a more perfect newspaper transcript of the President's proclamation at the British foreign office, as and for the just equivalent of an official communication of that document to the British government.

6. That when *Historicus*, in reviving Lord Russell and Lord Palmerston's afterthought and seeking to give it new currency, is charging Lord Hobart with "*out-Sewarding Seward*," he is himself all the while aware that Mr. Seward, in the letter of January 12, 1867, to which *Historicus* refers, has made an accidentally mistaken allusion to the date of May 3, 1861, in confounding the telegraphic publications of the American blockade in the English newspapers of that day with its subsequent official communications to the British government, eleven days later, (a matter probably of clerical inaccuracy, inasmuch as close in connection with it appear *errata* both of the dates of Mr. Seward's own proclamation of blockade and of the date of the issue of the British proclamation of neutrality, one of which *Historicus* himself corrects as a misprint;) and yet *Historicus*, well knowing that Lord Hobart is in the right, and he himself in the wrong, about the date at which the British government had adequate official knowledge of the American proclamation, is trying to overwhelm his opponent by citing the statement of the American Secretary of State as triumphantly sustaining his own perversion of the historical fact as disclosed by the parliamentary Blue Book.

7. That if *Historicus* "justifies his own reputation for accuracy and fair dealing"—which he asserts is the motive of his latest communication—by the process last hinted at, he certainly does not advance that reputation, in either particular, by asserting that "the very terms of the proclamation of blockade of April 19, 1861, were published in the *Times* of May 4, 1861."

8. That *Historicus* ought to invite Earl Russell to lend his great diplomatic name to a joint editing with himself of a new treatise on public law, in which should be treated, under distinctive heads, "Blockades," "Paper Blockades," and "Newspaper Blockades."

In reading over this summing-up I fear that I may have done *Historicus* injustice in assuming so strongly as I have that he must have been aware of the date at which the official notification of the American blockade reached the British Foreign Office. It may be quite possible, after all, that, though he had ransacked the Blue Book of 1861, (containing that and other documents,) he had not happened to cast his eye at the date of the reception in London of Lord Lyons's dispatch of April 27, and that my discovery of the indorsement upon it, "Received May 14," is as much a piece of news to him as it is to my readers generally. If so, I shall gladly learn that when he was replying to Lord Hobart, under date of January 24, he was doing so without any suspicion that he himself was keeping back that important memorandum in the history of our late rebellion. I am free to say, also, that I suppose his quotation of the *Times*'s summary of the proclamation was a case of a rash taking upon trust, instead of a designed misrepresentation of the facts. Such an awkward mistake, however, one would think, ought to serve as a salutary caution to him against future rashnesses of the same sort.

Personally, I can only regret that Mr. Harcourt throws himself open to such suspicions of inadequate accuracy and pains-taking as a writer on public law. For one, I must own to deriving great personal pleasure, as well as profit, from his publications; and I believe I speak no more than the truth when I add that I think the United States government and people are under great obligations to him for his advocacy of just and high-minded measures of international dealing toward this country at various periods of the late civil struggle—greater, perhaps, than to almost any other European writer who has undertaken to discuss our foreign relations.

Of Earl Russell, also—a much more important personage to us in our contest with the confederate rebels, from his high official position, than the publicist just named—I cannot forbear to say a word of more kindly comment than my previous criticisms would imply. If Americans must long remember the sharpness of his lordship's diplomatic and parliamentary expressions, they must also gratefully bear in mind his important and substantial friendliness toward the United States in more than one particular ;

his indulgent respect of our blockade at a time when its "binding effectiveness" might have been questioned; his steadfast refusal to join the French Emperor in full recognition of confederate independence; and his uniformly kind and friendly treatment of our representative at the British court throughout the dark days of our national discredit with Englishmen generally. Nor will Americans soon forget his lordship's magnanimous and candid confession at the Garrison banquet of the wrong he had done President Lincoln in questioning the sincerity of his motives in issuing the emancipation proclamation. Such a confession almost marks a new era in the practice of professed diplomatists.

In bringing to a close this extended communication, I must deprecate the conclusion that it embraces all that can be said on the merits of "Hasty recognition of rebel belligerency and our right to complain of it." No one can regret more than I do that I have been obliged to occupy so much space in the development of a single point. But that is a point on which I have followed, where Historicus and (I believe I may say) Lord Russell have led the way in challenging discussion. They have tried to conclude "our right to complain" with this plea in bar, that Great Britain took no step in the American struggle till the United States proclamation of blockade had set her in motion and compelled her to declare us belligerents and herself a neutral. I trust that that plea has now been taken out of the way of a fair hearing on the merits of our grievances.

Of those merits I cannot forbear to add that I hope in some other connection to show that the British pretense of being compelled to declare neutrality in our civil struggle in order to protect British commerce and to secure the rights of neutrals is mere trumpery; that, so far from President Lincoln's proclamation being a war measure, it was eminently a peace measure, intended not merely to be municipal, but also to be only temporary in its duration—to last, in its own phrase, "until Congress shall have assembled and deliberated on the said unlawful proceedings;" that no government could have been more surprised than were the United States at its proclamation of blockade being afterward (for it was not at the time) perverted into a pretense of a public war by England and France; that such a blockade as was that of the United States of their insurrectionary districts is no ground for foreign intervention under the law of nations; that if afterward there grew up within our borders a great civil war *on land*, there never were the elements of rebel belligerency *on the sea*; that, as Jefferson Davis's letters of marque and reprisal never came to anything—even with British and French suspension of the first point of the declaration of Paris in their favor, so as to give free scope to rebel privateers—so down to the end of the struggle the confederate navy proper every day "grew small," and, if possible, "beautifully less;" that British and French recognition of belligerency had for its object, if not the direct encouragement of rebel privateering, yet the taking a step onward in the direction of full recognition of rebel independence; and that finally, when the history of that recognition comes to be fully and fairly developed, it will be found to be, not a hasty recognition of rebel belligerency, but a prepared and persistent recognition of rebel equality; and such a precedent, to be deprecated and disavowed politically and governmentally, as the Alabama precedent has now begun to be by Englishmen themselves, as a precedent of neutrality, legally and juridically.

GEORGE BEMIS.

BOSTON, February 28.

APPENDIX No. III.

ARTICLE OF "HISTORICUS," FROM THE LONDON TIMES OF JANUARY 11, 1865, ON "CONFEDERATE MENACES AGAINST NEUTRAL RIGHTS.*"

[From the London Times of January 11, 1865.]

CONFEDERATE MENACES AGAINST NEUTRAL RIGHTS.

To the Editor of the Times :

SIR: The history of nations records every variety of attempt on the part of belligerents to break in upon those principles of public law which constitute the sole restraint on their passions and their interests. Nevertheless, I doubt if there can anywhere be found an instance in which any community pretending to the character of a civilized people has ventured upon so open a defiance of justice and of right as that which is flung down to the whole world of neutral nations in a document recently put forth by the confederate government. There is certainly nothing worse to be found even in the insane decrees of the French convention against neutral rights. This confederate paper is so incredibly insolent in its tone, and so extravagantly foolish in its pretensions, that, but for the fact that it is published "by authority" in the Index, (the avowed organ of the confederate government in this country,) I should certainly have taken it for granted that it had been one of those clumsy forgeries which from time to time issue from the American press. However, finding it vouched by such authority, I am bound to accept it as the genuine production of Mr. Benjamin, the confederate secretary of state, and to deal with it as such.

This astonishing performance professes to be a dispatch from the secretary of state at Richmond to the confederate secretary of the navy, containing instructions as to the treatment of neutral vessels by confederate cruisers. The origin of the paper is shortly this: It appears that the English Vice-Admiral Hope had called the attention of the captain of the *Florida* to the fact that the *Martaban*, a vessel with a British register and papers, had been burnt at sea by the *Alabama*. The vice-admiral, in a letter certainly not very happily worded, to which I shall presently revert, informed the captain of the *Florida* of the course he should adopt if such acts were repeated. It cannot be necessary to remind your readers, who are familiar with the recent discussions in the case of the *Trent*, that for a belligerent forcibly to deal with and dispose of neutral property without a regular adjudication in a prize court, is one of the gravest offenses which can be committed by a belligerent against a neutral nation. Neutrals are only induced to tolerate the exercise, at all times irksome, of belligerent rights by the security which the law of nations has guaranteed to them in the impartial and judicial decisions of a prize court. If this guarantee is violated and this security is removed there is no longer any protection for neutrals, and therefore no longer any prospect of peace. A belligerent cruiser who destroys property *prima facie* neutral without adjudication is guilty of an act which in its character is piracy and in its result is war. Of all the doctrines of the law of nations this is the most fundamental and the least disputed.

The right of the neutral to adjudication before a competent court is an indefeasible right of which no condition of circumstances can be allowed to deprive him; and yet it is this law which the confederate government have publicly announced that they intend to violate and set at naught. It is one thing for a government to be committed by the rash and inconsiderate acts of its military or naval officers; the mischief thus created is sometimes difficult enough to repair; but it is another and much more serious thing when offenses of this kind are the result of instructions authoritatively issued by the government itself; and it is to the latter category that the threatened outrages on neutral rights by the confederate cruisers unhappily belong. In dealing with the federal complaints against Great Britain on account of the acknowledgment of the belligerency of the South I have on former occasions pointed out that the fact of the confederate government possessing no ports into which it could carry its prizes for condemnation afforded no ground for refusing to it the rights of a maritime belligerent. I have further remarked that the consequence of this situation of the South

* See dispatch No. 854, from Mr. Adams to Mr. Seward, January 12, 1865, Vol. I, p. 613.

was one which no doubt gave to the North the benefit of its maritime superiority, for the South, having no ports, could make no captures upon neutral property, which can only be dealt with by the adjudication of a prize court. This is what the North gains and the South loses by the maritime inferiority of the latter. But it should seem that, while the North are dissatisfied with the advantage which the law of nations thus allots to them, the South are resolved not to endure the loss which the same law imposes upon them. They, unfortunately for themselves, are too weak to command a port into which they can conduct their prizes for adjudication, and therefore they propose to get rid of the difficulty by the simple method of declaring that they intend to dispense with adjudication altogether. That is to say, if it is difficult or inconvenient for you to carry a man presumably innocent to a place where he can be tried, you may lawfully hang him at once without any trial at all. This is the doctrine which the new candidate for a place among the society of nations proposes to introduce into the code of public law.

The pretext by which the confederate secretary pretends to justify these monstrous instructions is as ill-founded as the course of conduct they prescribe is indefensible. He makes a grievance of the fact that the neutral powers have prohibited either belligerent from bringing their prizes into the neutral harbors for the purpose of condemnation and sale. Now, there is no right more clearly declared by all writers to be inherent in a neutral government than that of the prohibiting the introduction of prizes for sale into its ports. Some of the best writers hold, indeed, that such a prohibition is an essential duty of neutrality, but none deny that such a course is permissible and proper. England and France have both adopted this rule in the present war. And, as far as I know, the same course has been pursued by all other civilized nations, otherwise the confederates would exercise in the ports of such nations as permitted them the privileges which they complain are denied to them elsewhere. But if to deny the entry of prizes into its ports is—as it unquestionably is—the right of a neutral government, then such a government is not to be told that because it thinks fit to exercise one right it shall therefore be deprived of another. It is no answer to the inalienable right which a neutral has to have captures made upon it adjudicated in a prize court that the captor is unable to find a port into which to carry the prize for adjudication. The only consequence of such a state of things is that the captor must abstain from neutral captures which he is unable legitimately to effect. On this point, if any authority on such a subject were wanting, that of Lord Stowell is expressed:

"When it is doubtful whether the capture is enemy's property, and it is impossible to bring it in, the safe and proper course is to dismiss. *When it is neutral, the act of destruction cannot be justified by the gravest importance of such an act to the captor's own state.*"—*The Felicity*, 2 Dods., p. 386.

If these doctrines had been mere speculative menaces, we might have been disposed to disregard them as a part of that idle rhodomontade to which the American politician is so incurably prone; but unfortunately in this case they have taken the very practical and dangerous form of a "minute of instructions" to the confederate naval officers, introduced by the following solemn paragraph in the secretary of state's dispatch:

"The purpose of the President in requesting that the papers should be referred to this department was to obtain for the guidance of the naval officers in command of our cruisers such further and fuller instructions for the discharge of their duties as the experience of the war has shown to be necessary. These instructions I have now the honor to forward to you for transmission to your subordinates.

"MINUTE OF INSTRUCTIONS.

"The cases which occur for decision by our cruisers may be classified as follows."

The following are the classes in which neutral rights are involved:

"B. A vessel under enemy's flag, with cargo wholly or in part belonging to neutrals.

"C. A vessel really neutral, with cargo wholly or in part belonging to the enemy.

"D. A vessel ostensibly neutral, but really hostile, fraudulently placed under a neutral flag and furnished with fraudulent papers as a cover to protect her from capture."

Let us see how Mr. Benjamin instructs the confederate cruisers to deal with these several cases. Beginning with class B, he says:

"B. A vessel under enemy's flag, with cargo wholly or in part belonging to neutrals.

"Under ordinary circumstances this case would present no embarrassment. The captured would be taken into a port of the captors, or of a neutral country; the portion of the cargo belonging to the neutrals would be delivered to the owners, and the vessel, with such portion of the cargo as belonged to the enemy, would be condemned as prize.

"The action of neutral governments has placed serious obstacles in the way of doing justice to their own people. They have closed their ports to the admission of captured vessels, and have thus rendered it impossible to make delivery in their own ports of the property of their own subjects found on board of the vessels of our enemies, while

it would be exposing those vessels to almost certain recapture to attempt to bring them into our ports; for the captured vessels are almost invariably sailing vessels, and the enemy's cruisers off our ports are steamers."

Now, there is nothing more certain than that neutral property not contraband on board an enemy's ship is not liable to belligerent capture. Wheaton expresses himself on this point with his usual precision:

"The exemption of neutral property from capture has no other exceptions than those arising from the carrying of contraband, breach of blockade, and other analogous cases where the conduct of the neutral gives to the belligerent a right to treat his property as enemy's property. The neutral flag constitutes no protection to an enemy's property, and *the belligerent communicates no hostile character to neutral property.*"

It being, then, the undoubted and unquestionable rule of law that neutral property on board an enemy's vessel is a thing with which a belligerent has no right to meddle or dispose of, let us see how Mr. Benjamin proposes to deal with it. The "113 - tions" thus proceed:

"If, for instance, Great Britain will not permit a captured enemy's vessel to be carried into one of her ports for the purpose of their delivering to a British subject his goods found on board, she would certainly have no just ground of complaint that the goods were not restored to their owner. If, therefore, on the renewed representations we are about to make, we find neutral nations persist in refusing to receive the property of their subjects in their own ports when captured by us on enemy's vessels, it will become necessary to instruct our cruisers to destroy such property whenever they are unable to bring the prize into our ports."

That is to say, in case Great Britain should not, at the orders of the confederate government, reverse the policy which, in common with all the nations of Europe, it has adopted, and allow her ports to be made a market for prizes, then the confederate cruisers will seize, burn, and destroy British property, over which they have no more right than they have over the coffers of the Bank of England, without process of law or color of justice. This is what Mr. Benjamin means to do to us unless we mend our ways; but he intends, it seems, to give us a short space for repentance, and "in the mean time" he will be content with an installment of injustice, for he proceeds:

"The commanders of our national cruisers should be instructed to continue their former practice of allowing the enemy to ransom his vessel in cases where the neutral property on board is of large value or bears any considerable proportion to that of the enemy; but if a ransom bond is refused, or if the proportion of neutral property on board is small compared with the value of the vessel and hostile cargo, the whole should be destroyed whenever the prize cannot be brought into a port of our own or of a neutral country."

That is to say, the question whether neutrals should or should not be wholly dispossessed of their own property, over which the captor has no right, is to depend upon whether the belligerent captain in whose vessel it is freighted chooses or not to ransom the ship, and on the proportions which the neutral bears to the belligerent cargo. Was so outrageous a scheme ever so coolly propounded? The logic of Mr. Benjamin comes simply to this: "Because you don't choose to ask me to dinner, I will rob your orchard."

A man who deals in this fashion with property over which he can have no possible right is not likely to be much more scrupulous in cases where, if he pursued the proper course, he might be entitled to capture. Accordingly, we find that Mr. Benjamin treats the second head of neutral rights in an equally summary and lawless manner. The instructions under class C are as follows:

"C. A vessel really neutral, with cargo wholly or in part belonging to the enemy."

After an empty flourish about the right of the confederacy to seize enemy's goods on board neutral vessels, in spite of the declaration of Paris, which right, however, the confederate secretary discreetly announces his intention to waive, he thus proceeds:

"The cruisers of the confederacy will therefore allow vessels of neutrals to pass free, unless laden with contraband of war destined for the enemy's ports. When such vessels are found to be laden with goods contraband of war, the contraband goods, if not the property of the owner of the vessel, are to be taken out, if practicable, and transhipped or destroyed, and she is to be allowed to continue her voyage. But if the owner of the vessel has put on board contraband goods belonging to himself, destined for the enemy's country, he thereby forfeits the neutral character, and the ship is to be considered an enemy's vessel and to be dealt with as such. No conflict with neutral powers on this subject is to be apprehended, as they have, with entire unanimity, issued proclamations forbidding their subjects during the present war from engaging in contraband trade under penalty of forfeiture of national protection."

That is to say, the question of the contraband character of the goods, and the consequent confiscation of the goods, and even, under certain circumstances, of the vessel itself, is to withdraw from the cognizance of the court to whom the law of nations

has remitted it, and is to be adjudicated upon the spot, at the discretion and on the responsibility of the captain.

This is what Captain Wilkes pretended to do in the case of the Trent, and we all know how the English government dealt with his decision, though reinforced by personal study of Kent and Wheaton. Mr. Benjamin was never more mistaken in his life than when he supposes that "no conflict with the neutral powers on this subject need be apprehended." It is perfectly true that the neutral powers have notified to their subjects that they will not be protected in a contraband trade; but in order that trade should lose its rights to the protection of the sovereign it is necessary that its contraband character should be established in the only legitimate manner—i. e., by the sentence of a prize court.

The confederate government may rest well assured that England will no more trust the decision of such questions to the learning of Captain Semmes than to that of Captain Wilkes. The forcible destruction of neutral property without adjudication is a national insult, which will meet with the most prompt and exemplary chastisement.

The next head of the confederate secretary's instructions is, if possible, more preposterous and outrageous:

"D. A vessel ostensibly neutral, but really hostile, fraudulently placed under neutral flag and furnished with fraudulent papers to protect her from capture:

"The embarrassment in actual practice may be considered as occurring almost exclusively in cases where an enemy's vessel has been, since the commencement of the present war, transferred to neutrals. The law of nations on the subject of the right of a belligerent to make legal sale to neutrals *flagrante bello* is not settled by universal concurrence.

"Our cruisers ought, therefore, to be instructed that where a vessel of the United States has been sold in good faith to a neutral since the commencement of the war, and where the title is so absolutely transferred as to divest the enemy of any future interest in the vessel, she is free from capture. If, however, any enemy's interest in the vessel remain, if she be mortgaged or hypothecated to the enemy, she is as much liable to be dealt with as a hostile vessel as though no transfer to the neutral had been made.

"It frequently occurs, however, that a belligerent makes simulated sales of vessels to neutrals with the view of protecting them from capture, and, under ordinary circumstances, when the other belligerent has reason to suspect the good faith of the transfer, the suspected vessel is brought into court for adjudication by the admiralty.

"This course is not open to our cruisers for the reasons above explained, and the only instructions, therefore, practicably applicable, under the circumstances, are the following:

"The captor should in every case make rigid examination of the papers and documents of every vessel sailing under a neutral flag known to have belonged to the enemy at the commencement of the war.

"He should take into consideration the nature of the trade in which the vessel is engaged, the national character of the master, the papers found on board, the place at which the alleged sale to the neutral took effect by delivery of the vessel, and every other circumstance tending to establish the true nature of the transfer, and to satisfy his mind whether the vessel be really neutral or merely disguised as such.

"If the captured vessel has double sets of papers, or if papers have been destroyed or subducted by her master during the chase, or if she has continued in the same course of trade and under the same master since the alleged sale to the neutral, it may be safely concluded that the property is still hostile and covered by fraudulent use of neutral flag.

"In these and all other cases, when there is great and decided preponderance of evidence to show that the vessel is really enemy's property, the cruiser must act on his conviction and treat her as such, leaving to his government the responsibility of satisfying any neutral claim for her value.

"But whenever the evidence leaves serious doubt as to the true character of the transfer, it will be proper rather to dismiss the vessel if she cannot be brought into port, than to exercise a harsh and doubtful belligerent right."

Every one in the slightest degree conversant with the literature of prize courts must be aware that the questions here referred to lie *inter apices juris*. The extent of interest which a belligerent may retain in a vessel ostensibly transferred, the facts which justly lead to the conclusion that an apparent sale is not *bona fide*—these and all the cognate questions are matters of the nicest and most complicated kind, which require for their just solution the patient and impartial application of judicial analysis of the highest order. And these are the questions which Mr. Benjamin proposes to leave to the instant decision of the confederate captain, who is to "act on his conviction," and to release or burn the ship, according as he may "satisfy his mind" on the subject. Just conceive a captain of a cruiser like the Alabama or the Florida with a rich prize just captured after an exciting chase, descending into his cabin to consider whether "any enemy's interest in the vessel remains," whether she is really mortgaged or

hypothecated," or whether the title is so "absolutely transferred as to divest the enemy of any future interest;" and then, having "satisfied his mind" that there is "great and decided preponderance of evidence" against the ship, proceeding "to act on his conviction," and to burn the vessel and destroy at once the property and the means of proving its innocence. Does the confederate government really believe that any neutral government in the world would tolerate such conduct for an instant?

The confederate secretary seems to imagine that in case of any unfortunate error on the part of the cruiser acting under these instructions, it will be easy enough for his government to "satisfy any neutral claims for the value." In the first place, as Sheridan said, "I don't like the security." But, besides, I will venture to tell the confederate secretary of state that he is very much mistaken if he supposes his instructions can be so easily atoned for. When an unauthorized officer like Captain Wilkes committed an outrage which his government is in a position to disavow, the affair may be readily accommodated by an apology and by restitution. But when the act is one by anticipation, deliberately authorized by the government itself, there is no room for apology or compensation. A man cannot be permitted to enter on a system of lawless plunder simply on the footing of paying the cost. Against such conduct there are more stringent and effective remedies. It is lucky for the confederate government that these insane "instructions" have been issued at a moment when they have no vessel afloat which could inflict upon its government the disaster of obeying them. But if ever the confederate government could get a fleet upon the high seas, I think I could promise Mr. Benjamin that they would not sail many weeks under such instructions. The confederate secretary complains of the English vice-admiral for having written that "He had issued the following instructions to the officers under his command: To capture and send to England for adjudication in the admiralty court every vessel by which a British vessel (i. e., with legal British papers) is burnt at sea." Admiral Hope made a mistake, it is true, (as sea captains who quote Lord Stowell are not unlikely to do), in supposing that this was a case for "adjudication in the admiralty court." But substantially he was right in instructing the officers under his command to seize all vessels acting upon such principles as those laid down in Mr. Benjamin's instructions, for such conduct is a just cause of reprisal, and, if necessary, of war. The only proper answer to such a code of instructions is to confiscate, or, if need be, to send to the bottom, every vessel that should attempt to execute them.

I cannot leave this "minute of instructions" without quoting as a *bonne bouche* its closing passage:

"If the British government has, in the interest of its own subjects, become sensible of the impropriety and impolicy of shutting its ports to the introduction of prizes made by our vessels, in all cases in which British claimants assert title to vessel or cargo, the instructions will be given to our cruisers to take into British ports all such vessels, there to remain until our admiralty courts have exercised their rightful exclusive jurisdiction over the prize questions involving such captures."

The calm and self-complacent impertinence of this paragraph I think it would be difficult to surpass. If England "sees the impropriety" of doing that which all the rest of the world has likewise thought it proper to do, and recognizes the "impolicy" of not allowing its ports to be made an *officina* in which the acts of war may be finally consummated by the condemnation and sale of prizes, then, but not till then, the great and magnanimous Confederate States of America will consent to give to the unfortunate Great Britain that protection in the jurisdiction of a prize court which the law of nations has ordained.

It is difficult to comprehend what can be the intention of the confederate government in promulgating such a document at such a moment. On the part of a great maritime power such conduct would be odious; in that of a belligerent which has not a cruiser afloat it hardly, perhaps, passes the point of being ridiculous. I do not desire to be hard upon the confederate government. Even those who least approve the objects for which they are fighting willingly accord to them the sympathy which belongs to gallantry and to misfortune. But this last proceeding of theirs would make one suppose that, reeling under the blows of repeated disaster, they had at last taken leave at once of reason and hope and given themselves up to the desperation of folly. I know not whether these instructions have come under the notice of her Majesty's government. It is impossible that such a document can be passed over in silence. The principal desire of every reasonable man in the country is, that under no circumstances should England be involved on either side in this dreadful contest. Nevertheless, as was sufficiently apparent in the affair of the Trent, there are limits which may not be passed. The confederate government must know perfectly well what would have been the result if the federal government had thought fit to adhere to the act of Captain Wilkes. And yet, what is the meaning of these instructions but to order every captain in their fleet, if they had a fleet, to imitate the acts of Captain Wilkes. To suppose that such things could pass with impunity would be to abuse the privileges of weakness. This document is either an idle menace, or, if intended to be put in practice, it is the authority for conduct which can have no result but war; and I

would venture most sincerely to recommend them at the earliest moment to recall a paper which, as long as it remains on record, will be a standing disgrace to them in the eyes of the civilized world.

There is another point of view in which this matter deserves to be regarded. Some persons in this country seem to occupy themselves in defeating the salutary law of the land which forbids the equipment of vessels of war for the belligerents within the realm. The confederate cruisers, so far as they have had any cruisers, have all, or nearly all, issued from English ports. Perhaps the consideration that any vessels which shall in future reach a similar destination will cruise against English commerce under orders nothing short of piratical, may act as a stronger motive to induce English merchants and ship-builders to abstain from attempts to violate and elude the law. It certainly would be a strange example of an "engineer hoist by his own petard," if Liverpool merchantmen were to be seen burning on the high seas by the act of cruisers sent out from Liverpool to execute the "instructions" of Mr. Benjamin. Whatever else these "instructions" may accomplish, I hope at least they will secure that no confederate cruiser shall ever again hail from an English port.

HISTORICUS.

TEMPLE, January 5.

APPENDIX No. IV.

THE CASE OF THE BARK MAURY, AT NEW YORK.*

Mr. Crampton to Mr. Marcy.

BRITISH LEGATION,
Washington, October 11, 1855.

SIR: I have the honor to call your attention to the inclosed depositions which have to-day been forwarded to me by Mr. Barclay, her Majesty's consul at New York, in regard to a vessel called the Maury, which is now fitting out at that port, and which, it appears, is evidently intended for warlike purposes.

Mr. Barclay further informs me that he has good reason to believe that this vessel is intended for the service of Russia in the present war, and also that a plan exists for fitting vessels of a similar description in other ports of the United States, with the express design of committing hostilities against her Majesty's government, and more particularly of intercepting and capturing the British mail steamers plying between Liverpool and Boston.

However this may be, the circumstances stated in the inclosed affidavits are of so positive a nature, and bear so suspicious an appearance, that I feel it to be my duty to call the attention of the United States government to the matter, with a view to an inquiry into the facts, and, if these shall be confirmed, to the adoption of such measures on the part of the United States authorities as may defeat the hostile intentions which appear to be entertained by the persons engaged in fitting out the vessel or vessels in question.

I avail myself of this opportunity to renew to you, sir, the assurance of my high consideration.

JOHN F. CRAMPTON.

HON. WILLIAM L. MARCY.

Deposition of Anthony Barclay.

CITY, COUNTY, AND STATE OF NEW YORK :

Anthony Barclay, her Britannic Majesty's consul for the State of New York, being duly sworn, doth depose and say: That from information given to him he verily believes, and expects to be able to prove, that a certain new vessel, now in the port of New York, called the Maury, has been built, fitted out, and armed with intent that such vessel should be employed by the Russian government to cruise and commit hostilities against the subjects and property of the Queen of Great Britain, with whom the United States are at peace, and this deponent stands ready to bring forward his proof thereof; and he respectfully claims that proceedings be had and taken whereby the said vessel, with her tackle, apparel, and furniture, together with all material and ammunition and stores, which may have been procured for this building and equipment thereof, shall and may be forfeited.

ANTHONY BARCLAY.

Sworn to this 10th day of October, 1855, before me.

GEORGE W. MORTON,
United States Commissioner.

Deposition of John N. Cornell.

CITY, COUNTY, AND STATE OF NEW YORK :

John A. Cornell, of New York City, police officer and dockmaster of the eleventh ward, being duly sworn, maketh oath and saith: That his suspicions have been excited

* See dispatch No. 437 from Mr. Seward to Mr. Adams, December 15, 1863, Vol. I, p. 543, and also note from Mr. Adams to the Earl of Clarendon, November 18, 1863, Vol. III, p. 622.

for several weeks past by the appearance of a new three-masted square-rigged schooner, which was lying at the foot of Stanton street, New York, up to Monday evening, the 8th of October, when she moved down to Dover street dock, and is there now; that she has the name of "Maury" upon her stern, but has never yet been out of port, and deponent has ascertained at the custom-house of the port of New York that she has not at present got her register; that this deponent is well acquainted with the build of vessels, and he has no hesitation in deposing that this vessel named the Maury is built, rigged, and equipped for warlike purposes, and has not the construction of a vessel for the merchant service; that his suspicions were particularly aroused from the nature of her cargo she has taken on board, which consists of war cannon, cannon balls, small-arms, coals, sixty or eighty extra spars, and other mercantile articles; that this deponent, within a few days last past, has been over the whole of the said vessel; at the bottom of the said vessel, and just above what appeared to be intended as ballast, are from two hundred to three hundred square boxes, containing cannon balls; also, there are from eighteen to twenty cannon intermingled with the said boxes, apparently so that they may pack well; on the top of the cannon is a large quantity of coal, while on top of the coal is a lot of lumber and the aforesaid extra spars; in the lockers of the cabin is a very large quantity of guns, pistols, swords, and other implements of war; and this deponent further verily believes that she is so fitted out for warlike purposes; her cannon are all mounted, and she has port-holes for cannon; and this deponent further says, that a person who assumes to act as first mate of the vessel showed her to deponent and remarked she had a curious kind of cargo, and the manner of the mate was such as to make deponent believe that the vessel was going on a warlike voyage; the said mate told deponent that some of the aforesaid cannon were for eighteen and twenty pound ball, and that the cannon on the main deck were for nine-pound ball caliber; deponent saw the mark "23" upon one of the cannon, and the mate said that was the number of the cannon; and this deponent further saith, that from all he knows and has been informed and has observed, he believes that the said vessel, the Maury, has been built and armed and equipped as aforesaid by the Russian government or its agents, to be used for war purposes against Great Britain, and he hereby informs against her and her equipment accordingly.

JOHN N. CORNELL.

Sworn at the city of New York, second circuit, the 10th day of October, 1855, before me.

GEORGE W. MORTON,
United States Commissioner.

Deposition of Charles Edwards.

CITY, COUNTY, AND STATE OF NEW YORK:

Charles Edwards, of the city of New York, counsellor at law, being sworn, maketh oath and saith, he verily believes the new vessel Maury has been built, equipped, and loaded by and for the Russian government, to be used in present war against the vessels and subjects of Great Britain; that a person, who deponent believes has been in the pay of Russia, gave him a full explanation of the armament on board the said vessel, which tallies with the statement contained in the affidavit of John N. Cornell, hereto annexed, except that the explanation to this deponent was much more minute; also, this deponent gathered from the person referred to that the said vessel, the Maury, when outside of port would ship a new crew of about eighty men, and she would be employed at first more particularly in attempting to overhaul some one or more of what are known as the "Cunard steamers," (British vessels,) and take them as prizes, put additional coal on board, and guns, and then go in company; while there were also other vessels built and fitted out by the Russian government similar to the Maury, who were ready to join her on a similar errand, with an ultimate destination against British possessions in the eastern hemisphere.

CHARLES EDWARDS.

Sworn at the city of New York, second circuit, the 10th day of October, 1855, before me.

G. W. H. MARTIN.

Deposition of Wm. D. Craft.

CITY, COUNTY, AND STATE OF NEW YORK:

William D. Craft, of New York, first lieutenant of police of the eleventh district of police for the city of New York, being duly sworn, doth depose and say: That on the 6th day of October instant, he went on board a new vessel called the Maury, then lying

at the foot of Stanton street, New York, and was shown over her. On her upper deck were six cannon, all mounted, and port-holes for the guns, and between decks were ten cannon, all mounted. Also, deponent saw a quantity of horse-pistols in the cabin; there was coal on board, and deponent was informed that there were a number of guns underneath the coal. Deponent also discovered boxes between decks. The between-decks were all clear fore and aft, with the exception of pump-well and chain-box. She was painted white between decks, with the exception of the lower side of the deck beams, they being of yellow pine. And this deponent also saith that he was a ship carpenter by trade, and from his observation of the particular build, furniture, and apparel of the said Maury, he believes she is a vessel of war.

WM. D. CRAFT.

Sworn at the city of New York, second circuit, the 10th day of October, 1855, before me.

G. W. H. MARTIN, *M. Cir.*

Mr. Hunter to Mr. Cushing.

DEPARTMENT OF STATE,
Washington, October 12, 1855.

SIR: By direction of the Secretary of State I have the honor to inclose a copy of a note of the 11th instant, addressed to this department by Mr. Crampton, her Britannic Majesty's minister, and of the affidavits which accompanied it, relative to a vessel called the Maury, which is stated to have been fitted out at New York, in violation of the laws of the United States, for the purpose of cruising against British vessels.

I have the honor to be, very respectfully, your obedient servant,

W. HUNTER,
Assistant Secretary.

HON. CALLEB CUSHING,
Attorney General.

Mr. Cushing to Mr. McKeon.

[By telegraph.]

WASHINGTON, *October 12, 1855.*

Mr. Crampton alleges that vessel called Maury, in Dover street dock, is armed for war against England. Please take information from Mr. Barclay, and prosecute if cause appears.

Copies by letter to-morrow.

C. CUSHING.

JOHN MCKEON, *Attorney U. S., New York.*

Mr. Cushing to Mr. Marcy.

ATTORNEY GENERAL'S OFFICE,
October 12, 1855.

SIR: I have the honor to inform you that, in consequence of the information communicated this day by Mr. Crampton, the minister of Great Britain, in regard of the vessel called the Maury, instructions have been dispatched to the attorney of the United States in New York to advise immediately with Mr. Barclay, the British consul there, and to institute the proper legal proceedings in the case, if sufficient cause to justify the same shall appear.

I am, very respectfully,

C. CUSHING.

HON. WM. L. MARCY,
Secretary of State.

Mr. McKeon to Mr. Barclay.

SOUTHERN DISTRICT OF NEW YORK,
United States District Attorney's Office, October 13, 1855, 9.30 a. m.

SIR: Late last evening I received from the Attorney General of the United States a telegraphic dispatch, requesting me to obtain information from you in relation to a vessel in this port supposed to be engaged in a violation of our neutrality laws.

I called this morning at half past nine o'clock at your office, with the marshal of this district, but the office was not open. Will you do me the favor to call at once at my office, or send to me the information, so that I may act.

With great respect, I remain your obedient servant,

JOHN McKEON,
United States District Attorney.

ANTHONY BARCLAY, Esq.,
Counsel of her Britannic Majesty.

Mr. McKeon to Mr. Redfield.

SOUTHERN DISTRICT OF NEW YORK,
United States District Attorney's Office, October 13, 1855.

SIR: You will please send at once on board of a vessel called the Maury an inspector, and examine into her cargo.

She lies at Dover street dock. You will please delay her clearance until a report is made to me of her cargo.

Very respectfully, your obedient servant,

JOHN McKEON,
United States District Attorney.

H. J. REDFIELD, Esq., *Collector, &c.*

Mr. Cushing to Mr. McKeon.

ATTORNEY GENERAL'S OFFICE,
October 13, 1855.

SIR: Yesterday I telegraphed you concerning the ship Maury, said to be fitting out in New York, in violation of the statutes of the United States.

I now inclose to you a copy of a dispatch from Mr. Crampton, the British minister, dated the 11th instant, to which I there referred. With this document before you, and the information which Mr. Barclay may impart, you will be able to understand what further it may be proper for you to do in the premises.

I am, very respectfully,

C. CUSHING.

JOHN McKEON, Esq.,
United States Attorney.

Mr. Benedict to Mr. Redfield.

CUSTOM-HOUSE, NEW YORK,
Surveyor's Office, October 15, 1855.

SIR: I inclose report of district officers who examined the bark Maury, pursuant to instructions. This bark is new, and has not yet taken out her register; said to be owned by Low & Brothers, whose vessels are all, I believe, engaged in the China trade.

Very respectfully, your obedient servant,

J. L. BENEDICT,
Deputy Surveyor, for Surveyor.

H. J. REDFIELD, Esq., *Collector.*

To JOHN COCHRANE, Esq., *Surveyor of the Port:*

DEAR SIR: Pursuant to instructions we have been on board the bark Maury, and find her laden on her ground tier with coal, and naval stores above the coal.

She was taking on board, on Saturday last, the 13th, cases of goods, casks of hardware, scales and beams, pickles, preserves, and catsups.

She has on her lower deck ten, and on her upper deck four, cannon, all mounted.

The dock clerk says she is loading for Shanghai, to go in the opium trade.

Yours, respectfully,

JACOB BITTEL,
A. W. SHADBOLT,
Inspectors.

NEW YORK, *October 15, 1855.*

Mr. McKeon to Mr. Edwards.

SOUTHERN DISTRICT OF NEW YORK,
United States District Attorney's Office, October 16, 1855.

SIR: I have prepared a libel against the ship or vessel called the Maury, upon the facts laid before the government by her British Majesty's envoy at Washington.

A verification of the pleading is required to be made by some party officially recognized as representing her Britannic Majesty's government at this port.

I am, very respectfully,

JOHN MCKEON,
United States District Attorney.

CHARLES EDWARDS, Esq.

Mr. McKeon to Mr. Cushing.

SOUTHERN DISTRICT OF NEW YORK,
United States District Attorney's Office, October 17, 1855.

SIR: I have the honor to report that, acting on the communication from you, and after consultation with Mr. Barclay and his legal adviser, I have this day filed a libel on the admiralty side of the United States district court against the vessel assuming to be called the Maury, under the third section of the neutrality act of April 20, 1818.

With high respect, your obedient servant,

JOHN MCKEON,
United States District Attorney.

HON. CALEB CUSHING,
Attorney General United States.

Mr. McKeon to Mr. Hillyer.

SOUTHERN DISTRICT OF NEW YORK,
United States District Attorney's Office, October 17, 1855.

SIR: I take the liberty to request that you will have the cargo of the Maury carefully examined, and communicate to me the result.

It is proper for me to state, that it is supposed that you will find munitions of war stowed under the lading of coal on board.

Very respectfully,

JOHN MCKEON,
United States District Attorney.

A. T. HILLYER, Esq.,
United States Marshal, Southern District New York.

A. A. Low to Mr. McKeon.

NEW YORK, October 18, 1855.

SIR: The bark Maury, owned in part by the undersigned, having been seized by a process from your office, we beg to offer the following explanations, viz:

That the said vessel was built by Messrs. Roosevelt, Joice & Co., of this city, under a contract made in the month of April last, after the model of the bark Penguin; that she was designed for the China trade; that there is nothing peculiar in her construction, apart from the rig, which was adopted with particular reference to economy in men; that in pursuance of the original intention, she was advertised, some three weeks since, for Shanghai, since which she has been receiving freight for that port; that she has on board, from Messrs. Fogg & Brothers, two hundred tons of coal, a quantity of naval stores, and a variety of ship-chandlery, for their house in China, with a little other general freight, with which she is expected to sail the coming week, under the command of Captain Fletcher, for the port above named.

We further declare, that in addition to the ordinary armament of a vessel of her class, she has but two deck guns, supposed to be necessary in consequence of the great increase in the number of pirates on the coast of China; that the other guns, shot, &c., on board, as per subjoined list, were purchased under an order from an American gentleman at Canton and shipped per Maury on freight; that said vessel has four spare spars, one foretop-gallant mast, one foretop-gallant yard, one main boom, one main-gaff

boom, and five extra studdingsail booms; and that her crew will consist of but twelve or fourteen men before the mast.

They furthermore declare that the vessel received the name of Maury in the month of May last, not to dishonor a man of whom our country has so much reason to be proud, but to bear upon an honorable mission the name of him who has done so much to improve navigation.

The undersigned pledge themselves to prove to the satisfaction of the British consul, while the vessel is still under the charge of the United States marshal, that the allegations made against the vessel are false; that she has no guns or materials of war under her coal; asking only that the expense to which they may be thus subjected shall be borne by the said consul when, and only when, the statements upon which the vessel has been so unjustly seized are fully disproved.

Finally, they declare that the Russians have no connection whatever with the enterprise in question.

A. A. LOW,
Of the Firm of A. A. Low & Brothers.

Hon. JOHN McKEON,
United States District Attorney.

On freight ten guns, sixty-two boxes of shot.

Sworn to before me, this 18th day of October, 1855.

GEO. F. BETTS,
United States Commissioner.

I hereby swear that I am cognizant of the facts mentioned in the foregoing statement, and that they are true.

NATH. B. PALMER.

Sworn to before me, this 18th day of October, 1855.

GEO. F. BETTS,
United States Commissioner.

Mr. Hillyer to Mr. McKeon.

SOUTHERN DISTRICT OF NEW YORK,
United States Marshal's Office, New York, October 19, 1855.

SIR: In reply to your communication of the 17th instant, requesting me to have the cargo of the Maury carefully examined and report to you the result, I beg leave to inform you that I have ascertained there are two hundred and fifty tons of coal in the run of said vessel, ten iron cannon between decks, mounted on wooden carriages; four ditto on deck; a number of boxes containing muskets, not opened; a number of small and side arms in the cabin; a lot of shot, and an assorted cargo, lumber, &c. Should it be deemed necessary to have the cargo thoroughly overhauled and the coal taken out, the expense attending such labor would not be less than one hundred and fifty dollars or two hundred dollars.

Awaiting your further instructions in the case, I remain your obedient servant,

AB. T. HILLYER,
United States Marshal.

JOHN McKEON, Esq.,
United States Attorney.

Mr. Edwards to Mr. McKeon.

IN THE MATTER OF THE MAURY.

NEW YORK, October 19, 1855.

DEAR SIR: From the explanation made in the case by Messrs. A. A. Low & Brothers, under oath, and your own very proper suggestions, I deem it reasonable that you should be left entirely free; confessing that although statements to me were very strong, it would be but fair toward the owners to "lift" the libel.

I remain, dear sir, yours, always, very respectfully,

CHARLES EDWARDS.

JOHN McKEON, Esq.,
United States District Attorney.

Mr. McKeon to Mr. Cushing.

UNITED STATES DISTRICT ATTORNEY'S OFFICE,
October 19, 1855.

SIR: Since filing the libel against the bark Maury, reported to you on the 17th instant, I have been attended by one of the firm of A. A. Low & Brothers, the owners of the Maury, who furnished me an original statement, which I inclose.

Charles Edwards, esq., was present when the explanations were made, and has addressed me a letter, of which I transmit a copy. Upon a full view of all the circumstances, I deemed it right to order a discharge of the vessel, and to ask your concurrence in dismissing the libel.

I have the honor to remain, sir, your obedient servant,

JOHN MCKEON,
United States District Attorney.

HON. CALIB CUSHING,
Attorney General of the United States.

Mr. Cushing to Mr. Marcy.

ATTORNEY GENERAL'S OFFICE, October 19, 1855.

SIR: I have the honor to inclose herewith copy of a letter this day received from Mr. McKeon, attorney of the United States for southern New York, reporting the institution of process against the vessel called Maury, as to which complaint has been made by the British minister, alleging that said vessel is armed in violation of law to cruise against a neutral power.

I am, very respectfully,

C. CUSHING.

HON. WILLIAM L. MARCY,
Secretary of State.

Mr. Cushing to Mr. McKeon.

ATTORNEY GENERAL'S OFFICE, October 22, 1855.

SIR: I have received your letter of the 19th instant, communicating the result of inquiry regarding the bark Maury.

The allegation against that vessel was improbable on its face; but, determined as the President is not to suffer any of the belligerent powers to trespass on the neutral rights of the United States, it was deemed proper to investigate the case, out of respect for the British minister, through whom the British consul, at New York, preferred complaint in the premises.

It is made manifest, by the documents which you transmit, that the suspicions of the British consul as to the character and destination of the Maury were wholly erroneous; and justice to her owners and freighters requires that the libel against her be dismissed.

I have the honor to be, very respectfully,

C. CUSHING.

HON. JOHN MCKEON,
Attorney of United States, New York.

Mr. Cushing to Mr. Marcy.

ATTORNEY GENERAL'S OFFICE, October 22, 1855.

SIR: I have the honor to communicate to you the history and result of the proceedings in the case of the bark Maury, of New York.

In consequence of the British minister's communication to you of the 11th instant, and which you referred to me on the day of its receipt, (the 12th,) brief instructions were, on the same day, dispatched by telegraph to Mr. McKeon, attorney of the United States for the southern district of New York, and more detailed instructions by mail the next day, requesting him to make immediate inquiry on the subject of the Maury, to consult thereon with Mr. Barclay, the British consul at New York, and, if sufficient probable cause appeared, to institute the proper process against her in the district court.

These instructions were induced by the documents communicated by the British minister, copies of which were transmitted by me to Mr. McKeon.

The documents consisted of—

1. An affidavit by Mr. Barclay, setting forth that he believed, and expected to be able to prove, that the Maury was built, fitted out, and armed, with intent to be em-

ployed by the Russian government to cruise against the subjects of Great Britain, and that he stood ready to bring forward his proof thereof.

2. An affidavit of one Cornell, purporting to be a police officer in New York, who professes to describe the build, equipment, armament and cargo of the Maury, and concludes with expression of belief that she was built, armed and equipped by the Russian government for war purposes against Great Britain.

3. An affidavit of one Craft, also purporting to be a police officer in New York, who speaks more guardedly, briefly describes the visible armament of the Maury, repeats hearsay as to her freight, and expresses belief that she is a vessel of war.

4. Finally, the affidavit of Mr. Edwards, a counsellor-at-law in New York, understood to be counsel for the British consul, who says that he verily believes that the Maury was built, equipped, and loaded by and for the Russian government, to be used in the present war against the vessels and subjects of Great Britain.

Mr. Edwards then proceeds to state that a person, who, he believes, has been in the pay of the Russian government, gave him a full explanation of the armament and destination of the Maury. He, Mr. Edwards, "gathered from the person referred to" that the plan of the Maury was to attack and capture one of the Cunard British mail steamers, arm the prize, and, after being joined by other vessels of the same construction, built and fitted out by the Russian government, to proceed to attack the "British possessions" in the East Indies.

The representations concerning the Maury, which Mr. Edwards thus adopted, were so grossly improbable on their face, and had so much the air of a contrivance to impose on him, and through him the British consul, as to produce some hesitation in my mind as to the propriety of instituting process in the case; but the specific and positive statements of Cornell and Craft, especially the former, as to the build, rig, armament and imputed contents of the vessel, seem to me, on the whole, to justify and require an examination of the case, at the hazard of possible inconvenience to innocent parties.

To make such examination effectual, it was necessary to libel the Maury, and place her in charge of the marshal.

I have now received from Mr. McKeon report of the result of the investigation.

It appears that the Maury was owned in part by Messrs. A. A. Low & Brothers, who have afforded satisfactory information as to her construction, character, and destination.

They make affidavit that she was built and equipped for trade with China, having, in addition to the ordinary armament of vessels in that business, only two deck guns, deemed requisite on account of the increase of piracy in the seas of China.

It further appears by these explanations that the statement made as to the guns and munitions of war and extra spars on board the Maury was inaccurate, to use the mildest admissible expression; that the surmises as to the illegality of her character are not substantiated by proof; and that she is in fact advertised for general affreightment, and receiving cargo destined for Shanghai.

Neither Mr. Barelay nor Mr. Edwards brought forward any evidence to contradict these facts; on the contrary, Mr. Edwards has, in a letter addressed to Mr. McKeon, expressed his conviction of the propriety of dismissing the libel, which is also recommended unreservedly by Mr. McKeon.

Under these circumstances, it affords me pleasure to enable you to give assurance that the Cunard mail steamers may continue to enter and to leave our ports without apprehension of being captured by the Maury, and converted into Russian men-of-war for the prosecution of hostilities in the East Indies.

I annex copies of Mr. McKeon's report of the affidavits submitted by parties interested in the Maury, or in her lading, and of the letter of Mr. Edwards to Mr. McKeon.

I am, very respectfully,

C. CUSHING.

Hon. WM. L. MARCY,
Secretary of State.

Mr. McKeon to Mr. Cushing.

SOUTHERN DISTRICT OF NEW YORK,
UNITED STATES DISTRICT ATTORNEY'S OFFICE,
New York, November 20, 1855.

SIR: I have the honor to inclose a copy of a letter received from Hon. M. H. Grinnell.

I am not aware of any objection on our part, but still I desire to have your assent to the application, before I deliver the papers referred to in Mr. Grinnell's letter.

Very respectfully,

JOHN MCKEON,
United States District Attorney.

Hon. CALEB CUSHING,
Attorney General, &c.

Messrs. A. A. Low & Brothers to Mr. Stevens.

JOHN A. STEVENS, Esq., *Chairman of Committee of Chamber of Commerce:*

The bark Maury was launched about the last of September, and at an early day thereafter the undersigned agreed with Fogg Brothers, of this city, to take for them to the port of Shanghai, in China, two hundred tons of coal, one thousand barrels of merchandise, and seventy to eighty tons of measurement goods.

The coals not being at once available, ten mounted guns and their equipments, intended to have been sent by the N. B. Palmer, but not ready in season for her, were sent to the vessel to be placed in her bottom, and to serve as ballast till the coal could be had. When this was put on board the guns were raised between decks, and shortly afterward the vessel was moved to her berth at pier 27 East River.

Having been publicly advertised by the undersigned for the port of Shanghai in five daily papers, the Maury was receiving freight at the place above named on the 17th October, at 2 to 3 o'clock p. m., when the United States deputy marshal appeared on board, displaced the captain, and ordered the hatches of the vessel to be closed.

Captain Fletcher immediately made known to us what had taken place, and the writer repaired to the office of the United States district attorney to obtain an explanation. He was in court, and appointed the following morning for an interview. At 9 a. m. of Thursday the 18th, the writer called at his office with his partner, Mr. Lyman, and Mr. Fogg, of the firm above referred to, and finding that the vessel had been seized by reason of information lodged against her by the British consul as set forth in the accompanying deposition, the following statement was drawn up and sworn to. (See No. 14.)

This, the district attorney said, he would forward to Washington. In the mean time he was willing to release the vessel on our giving bail, which we thought it best not to do.

From the district attorney the writer went to Mr. Barclay, made the explanations which had been given to the former, showed the order under which the guns had been purchased, and requested a withdrawal of his complaint against the bark. Mr. Barclay was not willing to act without first seeing Mr. Edwards, his counsel, and a party to the complaint. When called upon a second time, the statement made to the district attorney was read to him, but he was still unwilling to act without Mr. Edwards.

On the following day, about forty-eight hours after the vessel was seized, Mr. Edwards called at the district attorney's office, withdrew the complaint, and the libel was lifted without any charge to the owners of the Maury.

It is due to the district attorney to state that in the mean time the vessel was allowed to receive cargo under the surveillance of two of the marshal's men.

On Monday, the 22d, Mr. Barclay called at the office of the subscribers and expressed his regret that he had occasioned us so much trouble; and was told that the least he could do was publicly to acknowledge the error into which he had been betrayed, and to say that the vessel had been seized in ignorance of her ownership.

A paragraph from the Boston Daily Advertiser was shown to Mr. Barclay as an evidence of the exaggerated character the report of the vessel's seizure was assuming in other places. On Wednesday, the 24th, the following appeared in the New York Herald:

"Misrepresentations on the above subject having been published in various newspapers—among others that munitions of war were found on board 'secreted under a quantity of cotton'—I desire to disabuse the mind of the public of that impression by stating that such was not the case.

"Had my endeavors, made before information was formally lodged, to ascertain the owners of the ship Maury succeeded, the explanations which that respectable firm, Messrs. A. A. Low & Brothers, gave after the libel was filed, would have been sought by me, and no doubt would have been given before, and the course which was adopted would not have been resorted to.

"A. BARCLAY,
"Her Britannic Majesty's Consul.

"NEW YORK, October 23, 1855."

The undersigned beg to say that it had been publicly announced in New York papers again and again that the vessel was building for them; she was publicly advertised in their name; insurance had been done upon her to a large amount in Wall street; the deponents, Cornell and Craft, are well known to the builders, are accustomed to be in their yard almost daily, and it is impossible to resist the conviction that to them at least it was known for whom she was preparing for sea.

They respectfully ask, then, if the evidence upon which the complaint is founded should be weighed against the character and standing of respectable and responsible men, if it was of a nature to warrant so extreme a measure without the most rigid inquiry in a proper direction, and, when shown to be utterly worthless, whether the

apology of Mr. Barclay was of that prompt and ample character which one honorable man should delight to make to another whose reputation he has unwittingly, unjustly called in question.

A. A. LOW & BROTHERS.
By A. A. LOW.

A TEMPORARY ACT PASSED BY THE UNITED STATES GOVERNMENT AT THE INSTANCE OF THE BRITISH GOVERNMENT, IN THE CASE OF THE REBELLION IN CANADA.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the several collectors, naval officers, surveyors, inspectors of customs, the marshals, and deputy marshals of the United States, and every other officer who may be specially empowered for the purpose by the President of the United States, shall be, and they are hereby, respectively authorized and required to seize and detain any vessel or any arms or munitions of war which may be provided or prepared for any military expedition or enterprise against the territory or dominions of any foreign prince or state, or of any colony, district, or people contiguous with the United States, and with whom they are at peace, contrary to the sixth section of the act passed on the twentieth of April, eighteen hundred and eighteen, entitled "An act in addition to the act for the punishment of certain crimes against the United States, and to repeal the acts therein mentioned," and retain possession of the same until the decision of the President be had thereon, or until the same shall be released as herein-after directed.

SEC. 2. *And be it further enacted,* That the several officers mentioned in the foregoing section shall be, and they are hereby, respectively authorized and required to seize any vessel or vehicle, and all arms or munitions of war, about to pass the frontier of the United States for any place within any foreign state or colony contiguous with the United States, where the character of the vessel or vehicle, and the quantity of arms and munitions, or other circumstances, shall furnish probable cause to believe that the said vessel or vehicle, arms, or munitions of war are intended to be employed by the owner or owners thereof, or any other person or persons, with his or their privity, in carrying on any military expedition or operations within the territory or dominions of any foreign prince or state, or any colony, district, or people contiguous with the United States, and with whom the United States are at peace, and detain the same until the decision of the President be had for the restoration of the same, or until such property shall be discharged by the judgment of a court of competent jurisdiction: *Provided,* That nothing in this act contained shall be construed to extend to, or interfere with, any trade in arms or munitions of war, conducted in vessels by sea, with any foreign port or place whatsoever, or with any other trade which might have been lawfully carried on before the passage of this act, under the law of nations and the provisions of the act hereby amended.

SEC. 3. *And be it further enacted,* That it shall be the duty of the officer making any seizure under this act to make application, with due diligence, to the district judge of the district court of the United States within which such seizure may be made, for a warrant to justify the detention of the property so seized; which warrant shall be granted only on oath or affirmation showing that there is probable cause to believe that the property so seized is intended to be used in a manner contrary to the provisions of this act; and if said judge shall refuse to issue such warrant, or application therefor shall not be made by the officer making such seizure within a reasonable time, not exceeding ten days thereafter, the said property shall forthwith be restored to the owner. But if the said judge shall be satisfied that the seizure was justified under the provisions of this act, and issue his warrant accordingly, then the same shall be detained by the officer so seizing said property, until the President shall order it to be restored to the owner or claimant, or until it shall be discharged in due course of law, on the petition of the claimant, as hereinafter provided.

SEC. 4. *And be it further enacted,* That the owner or claimant of any property seized under this act may file his petition in the circuit or district court of the United States, in the district where such seizure was made, setting forth the facts in the case; and thereupon such court shall proceed, with all convenient dispatch, after causing due notice to be given to the district attorney and officer making such seizure, to decide upon the said case and order restoration of the property, unless it shall appear that the seizure was authorized by this act; and the circuit and district courts shall have jurisdiction, and are hereby vested with full power and authority to try and determine all cases which may arise under this act; and all issues in fact arising under it shall be decided by a jury in the manner now provided by law.

SEC. 5. *And be it further enacted,* That whenever the officer making any seizure under this act shall have applied for and obtained a warrant for the detention of the property, or the claimant shall have filed a petition for its restoration and failed to obtain

it. and the property so seized shall have been in the custody of the officer for the term of three calendar months from the date of such seizure, it shall and may be lawful for the claimant or owner to file with the officer a bond to the amount of double the value of the property so seized and detained, with at least two sureties, to be approved by the judge of the circuit or district court, with a condition that the property, when restored, shall not be used or employed by the owner or owners thereof, or by any other person or persons with his or their privity, in carrying on any military expedition or operations within the territory or dominions of any foreign prince or state, or any colony, district, or people conterminous with the United States, with whom the United States are at peace; and thereupon the said officer shall restore such property to the owner or claimant thus giving bond: *Provided*, That such restoration shall not prevent seizure from being again made, in case there may exist fresh cause to apprehend a new violation of any of the provisions of this act.

SEC. 6. *And be it further enacted*, That every person apprehended and committed for trial for any offense against the act hereby amended, shall, when admitted to bail for his appearance, give such additional security as the judge admitting him to bail may require, not to violate, nor to aid in violating, any of the provisions of the act hereby amended.

SEC. 7. *And be it further enacted*, That whenever the President of the United States shall have reason to believe that the provisions of this act have been or are likely to be violated, that offenses have been or are likely to be committed against the provisions of the act hereby amended, within any judicial district, it shall be lawful for him, in his discretion, to direct the judge, marshal, and district attorney, of such district, to attend at such place within the district, and for such time as he may designate, for the purpose of the more speedy and convenient arrest and examination of persons charged with the violation of the act hereby amended; and it shall be the duty of every such judge, or other officer, when any such requisition shall be received by him, to attend at the place and for the time therein designated.

SEC. 8. *And be it further enacted*, That it shall be lawful for the President of the United States, or such person as he may empower for that purpose, to employ such part of the land or naval forces of the United States, or of the militia, as shall be necessary to prevent the violation, and to enforce the due execution of this act, and the act hereby amended.

SEC. 9. *And be it further enacted*, That this act shall continue in force for the period of two years, and no longer.

Approved March 10, 1838.

APPENDIX No. V.

RIGHTS ACCORDED TO NEUTRALS AND RIGHTS CLAIMED BY BELLIGERENTS.*

MESSAGE FROM THE PRESIDENT OF THE UNITED STATES, TRANSMITTING
COPIES OF CORRESPONDENCE RELATING TO THE RIGHTS ACCORDED
TO NEUTRALS AND THE RIGHTS CLAIMED BY BELLIGERENTS IN THE
WAR PENDING BETWEEN CERTAIN EUROPEAN POWERS.

To the House of Representatives :

I transmit a report from the Secretary of State, with accompanying papers, in answer
to the resolution of the House of Representatives of the 1st instant.

FRANKLIN PIERCE.

WASHINGTON, May 11, 1854.

DEPARTMENT OF STATE,

Washington, May 11, 1854.

The Secretary of State, to whom has been referred a resolution of the House of Representatives of the 1st instant, requesting the President to communicate to that "House (as far as in his opinion may not be incompatible with the public interest) copies of all correspondence that has passed between this government and foreign governments upon the subject of the rights accorded by declaration or otherwise to neutrals, and the rights claimed by belligerents, in the war pending between certain European powers," has the honor to report to the President the accompanying copy of papers, embracing the correspondence called for by the resolution.

Respectfully submitted.

W. L. MARCY.

The PRESIDENT OF THE UNITED STATES.

Mr. Crampton to Mr. Marcy.

WASHINGTON, April 21, 1854.

The undersigned, her Britannic Majesty's envoy extraordinary and minister plenipotentiary to the United States of America, has received orders from his government to make to the Secretary of State of the United States the following communication :

Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, and his Majesty the Emperor of the French, being compelled to take up arms for the purpose of repelling the aggression of his Majesty the Emperor of Russia upon the Ottoman Empire, and being desirous to lessen as much as possible the disastrous consequences to commerce resulting from a state of warfare, their Majesties have resolved, for the present, not to authorize the issue of letters of marque.

In making this resolution known they think it right to announce, at the same time, the principles upon which they will be guided during the course of this war with regard to the navigation and commerce of neutrals.

Her Majesty the Queen of the United Kingdom of Great Britain and Ireland has accordingly published the accompanying declaration, which is identical with that published by his Majesty the Emperor of the French.

In thus restricting within the narrowest limits the exercise of their rights as belligerents, the allied governments confidently trust that the governments of countries which may remain neutral during this war will sincerely exert every effort to enforce upon their subjects or citizens the necessity of observing the strictest neutrality.

Her Britannic Majesty's government entertains the confident hope that the United States government will receive with satisfaction the announcement of the resolutions thus taken in common by the two allied governments, and that it will, in the spirit of just reciprocity, give orders that no privateer under Russian colors shall be equipped or

* See dispatch No. 761, from Mr. Seward to Mr. Adams, November 16, 1863, Vol. I, p. 607.

victualled, or admitted with its prizes, in the ports of the United States; and also that the citizens of the United States shall rigorously abstain from taking part in armaments of this nature, or in any other measure opposed to the duties of a strict neutrality.

The undersigned has the honor to avail himself of this occasion to renew to the Secretary of State of the United States the assurance of his highest consideration.

JOHN F. CRAMPTON.

Hon. W. L. MARCY,
Secretary of State, &c., &c.

Declaration of the Queen.

DECLARATION.

Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, having been compelled to take up arms in support of an ally, is desirous of rendering the war as little onerous as possible to the powers with whom she remains at peace.

To preserve the commerce of neutrals from all unnecessary obstruction her Majesty is willing, for the present, to waive a part of the belligerent rights appertaining to her by the law of nations.

It is impossible for her Majesty to forego the exercise of her right of seizing articles contraband of war, and of preventing neutrals from bearing the enemy's dispatches; and she must maintain the right of a belligerent to prevent neutrals from breaking any effective blockade which may be established with an adequate force against the enemy's forts, harbors, or coasts.

But her Majesty will waive the right of seizing enemy's property laden on board a neutral vessel, unless it be contraband of war.

It is not her Majesty's intention to claim the confiscation of neutral property, not being contraband of war, found on board enemies' ships; and her Majesty further declares that, being anxious to lessen as much as possible the evils of war, and to restrict its operations to the regularly organized forces of the country, it is not her present intention to issue letters of marque for the commissioning of privateers.

WESTMINSTER, March 28, 1854.

The Count de Sartiges to Mr. Marcy.

[Translation.]

LEGATION OF FRANCE IN THE UNITED STATES,
Washington, April 28, 1854.

The undersigned, envoy extraordinary and minister plenipotentiary of France, has received orders from his government to address the following communication to the Hon. Secretary of State:

His Majesty the Emperor of the French, and her Majesty the Queen of the United Kingdom of Great Britain, are about to find themselves under the necessity of resorting to force of arms, in order to repel the aggressions, of which the Ottoman Empire is the object, on the part of the government of his Majesty the Emperor of Russia. Being desirous to lessen as much as possible, in behalf of commerce, the fatal consequences of a state of war, their Majesties have determined not to authorize privateering for the present, by issuing letters of marque, and to make known, at the same time that this determination is communicated, the principles which they intend to apply to the navigation and the commerce of neutrals during this war.

It was with this view that his Majesty the Emperor of the French caused the accompanying declaration to be published; the same being identical with that which her Majesty the Queen of the United Kingdom of Great Britain and Ireland has caused to be published on her side.

In confining the exercise of their rights of belligerents within such narrow bounds the allied governments consider themselves justified in relying upon the sincere efforts of those governments which shall remain neutral in this war, to cause their respective citizens and subjects to observe the obligations of strictest neutrality. Consequently, the government of his Majesty the Emperor of the French trusts that the government of the United States will receive with satisfaction the announcement of the determination taken in common between the two allied governments, and that it will, by way of just reciprocity, give orders so that no privateer under the Russian flag shall be allowed to be fitted out or victualled, nor admitted with its prizes, in the ports of the United States, and in order that United States citizens may rigorously abstain from

taking part in equipments of this kind, or in any other measure contrary to the duties of a strict neutrality.

The undersigned avails himself of this occasion to renew to the Hon. Mr. Marcy the assurance of his high consideration.

SARTIGES.

Mr. Marcy to Mr. Crampton.

DEPARTMENT OF STATE,
Washington, April 28, 1854.

The undersigned, Secretary of State of the United States, has had the honor to receive the note of Mr. Crampton, her Britannic Majesty's envoy extraordinary and minister plenipotentiary, of the 21st instant, accompanied by the declaration of her Majesty the Queen of the United Kingdom of Great Britain and Ireland, in regard to the rule which will for the present be observed toward those powers with which she is at peace, in the existing war with Russia.

The undersigned has submitted those communications to the President, and received his direction to express to her Majesty's government his satisfaction that the principle that free ships make free goods, which the United States have so long and so strenuously contended for as a neutral right, and in which some of the leading powers of Europe have concurred, is to have a qualified sanction by the practical observance of it in the present war by both Great Britain and France—two of the most powerful nations of Europe.

Notwithstanding the sincere gratification which her Majesty's declaration has given to the President, it would have been enhanced if the rule alluded to had been announced as one which would be observed not only in the present, but in every future war in which Great Britain shall be a party. The unconditional sanction of this rule by the British and French governments, together with the practical observance of it in the present war, would cause it to be henceforth recognized throughout the civilized world as a general principle of international law. This government, from its very commencement, has labored for its recognition as a neutral right. It has incorporated it in many of its treaties with foreign powers. France, Russia, Prussia, and other nations have, in various ways, fully concurred with the United States in regarding it as a sound and salutary principle, in all respects proper to be incorporated into the law of nations.

The same consideration which has induced her Britannic Majesty, in concurrence with his Majesty the Emperor of the French, to present it as a concession in the present war, the desire "to preserve the commerce of neutrals from all unnecessary obstruction," will, it is presumed, have equal weight with the belligerents in any future war, and satisfy them that the claims of the principal maritime powers, while neutral, to have it recognized as a rule of international law, are well founded, and should be no longer contested.

To settle the principle that free ships make free goods, except articles contraband of war, and to prevent it from being called again in question from any quarter or under any circumstances, the United States are desirous to unite with other powers in a declaration that it shall be observed by each, hereafter, as a rule of international law.

The exemption of the property of neutrals, not contraband, from seizure and confiscation when laden on board of an enemy's vessel, is a right now generally recognized by the law of nations. The President is pleased to perceive, from the declaration of her Britannic Majesty, that the course to be pursued by her cruisers will not bring it into question in the present war.

The undersigned is directed by the President to state to her Majesty's minister near this government that the United States, while claiming the full enjoyment of their rights as a neutral power, will observe the strictest neutrality toward each and all the belligerents. The laws of this country impose severe restrictions not only upon its own citizens, but upon all persons who may be residents within any of the territories of the United States, against equipping privateers, receiving commissions, or enlisting men therein, for the purpose of taking a part in any foreign war. It is not apprehended that there will be any attempt to violate these laws; but should the just expectation of the President be disappointed, he will not fail in his duty to use the power with which he is invested to enforce obedience to them. Considerations of interest and the obligations of duty alike give assurance that the citizens of the United States will in no way compromise the neutrality of their country by participating in the contest in which the principal powers of Europe are now unhappily engaged.

The undersigned avails himself of this opportunity to renew to Mr. Crampton the assurance of his distinguished consideration.

W. L. MARCY.

JOHN F. CRAMPTON, Esq., &c., &c.

[Same, *mutatis mutandis*, to the Count de Sartiges.]

Mr. Crampton to Mr. Marcy.

WASHINGTON, May 9, 1854.

The undersigned, her Britannic Majesty's envoy extraordinary and minister plenipotentiary to the United States of America, has the honor, by the instructions of his government, to communicate to the Hon. William L. Marcy, Secretary of State of the United States, a copy of the London Gazette of the 18th ultimo, containing two orders issued by the Queen in council: one extending to the 15th of the present month the period of time allowed to Russian ships to clear out of harbor, and bring their cargoes to Great Britain from any Russian ports in the Baltic or White Sea, not being blockaded; the other granting additional facilities to trade beyond those specified in her Majesty's declaration of the 28th of March last.

The undersigned avails himself of this occasion to renew to the Secretary of State of the United States the assurances of his highest consideration.

JOHN F. CRAMPTON.

Hon. W. L. MARCY,
Secretary of State.

At the Court of Windsor, the 15th day of April, 1854.

Present, the Queen's most excellent Majesty in council.

Whereas her Majesty was graciously pleased, on the 28th day of March last, to issue her royal declaration in the following terms:

"Her Majesty, the Queen of the United Kingdom of Great Britain and Ireland, having been compelled to take up arms in support of an ally, is desirous of rendering the war as little onerous as possible to the powers with whom she remains at peace.

"To preserve the commerce of neutrals from all unnecessary obstruction, her Majesty is willing, for the present, to waive a part of the belligerent rights appertaining to her by the law of nations.

"It is impossible for her Majesty to forego the exercise of her right of seizing articles contraband of war, and of preventing neutrals from bearing the enemy's dispatches, and she must maintain the right of a belligerent to prevent neutrals from breaking any effective blockade which may be established with an adequate force against the enemy's forts, harbors, or coasts.

"But her Majesty will waive the right of seizing enemies' property laden on board a neutral vessel, unless it be contraband of war.

"It is not her Majesty's intention to claim the confiscation of neutral property, not being contraband of war, found on board enemies' ships; and her Majesty further declares that, being anxious to lessen as much as possible the evils of war, and to restrict its operations to the regularly organized forces of the country, it is not her present intention to issue letters of marque for the commissioning of privateers:"

Now, it is this day ordered, by and with the advice of her privy council, that all vessels under a neutral or friendly flag, being neutral or friendly property, shall be permitted to import into any port or place in her Majesty's dominions all goods and merchandise whatsoever, to whomsoever the same may belong; and to export from any port or place in her Majesty's dominions to any port, not blockaded, any cargo or goods not being contraband of war, or not requiring a special permission, to whomsoever the same may belong.

And her Majesty is further pleased, by and with the advice of her privy council, to order, and it is hereby further ordered, that, save and except only as aforesaid, all the subjects of her Majesty and the subjects or citizens of any neutral or friendly state shall and may, during and notwithstanding the present hostilities with Russia, freely trade with all ports and places, wheresoever situate, which shall not be in a state of blockade, save and except that no British vessel shall, under any circumstances whatsoever, either under or by virtue of this order or otherwise, be permitted or empowered to enter or communicate with any port or place which shall belong to or be in the possession or occupation of her Majesty's enemies.

And the right honorable the lords commissioners of her Majesty's treasury, the lords commissioners of the admiralty, the lord warden of the cinque ports, and her Majesty's principal secretary of state for war and the colonies, are to give the necessary directions herein as to them may respectively appertain.

C. C. GREVILLE.

At the Court at Windsor, the 15th day of April, 1854.

Present, the Queen's most excellent Majesty in council.

Whereas, by an order of her Majesty in council, of the 29th of March last, it was among other things ordered, "that any Russian merchant vessel which, prior to the

date of this order, shall have sailed from any foreign port, bound for any port or place in her Majesty's dominions, shall be permitted to enter such port or place and to discharge her cargo, and afterwards forthwith to depart without molestation, and that any such vessel, if met at sea by any of her Majesty's ships, shall be permitted to continue her voyage to any port not blockaded."

And whereas, her Majesty, by and with the advice of her said council, is now pleased to alter and extend such part of the said order, it is hereby ordered, by and with such advice as aforesaid, as follows, that is to say: that any Russian merchant vessel which, prior to the 15th day of May, one thousand eight hundred and fifty-four, shall have sailed from any port of Russia situated either in or upon the shores or coasts of the Baltic Sea or of the White Sea, bound for any port or place in her Majesty's dominions, shall be permitted to enter such last-mentioned port or place, and to discharge her cargo, and afterwards forthwith to depart without molestation; and that any such vessel, if met at sea by any of her Majesty's ships, shall be permitted to continue her voyage to any port not blockaded.

And her Majesty is pleased, by and with the advice aforesaid, further to order, and it is hereby further ordered, that in all other respects her Majesty's aforesaid order in council of the 29th day of March last shall be and remain in full force, effect, and operation.

And the right honorable the lords commissioners of her Majesty's treasury, the lords commissioners of the admiralty, and the lord warden of the Cinque Ports, are to give the necessary directions herein as to them may respectively appertain.

C. C. GREVILLE.

Mr. Buchanan to Mr. Marcy.

[Extracts.]

No. 25.]

LEGATION OF THE UNITED STATES,
London, February 24, 1854.

SIR:

I then inquired of his lordship [Lord Clarendon] whether the British government had yet determined upon the course they would pursue, during the impending war, in regard to neutrals; whether they would adhere to their old rule of capturing the goods of an enemy on board the vessel of a friend, or adopt the rule of "free ships, free goods;" observing that it was of great importance to my countrymen, engaged in commerce, that they should know the decision on this point as speedily as possible.

He said that the question was then under the consideration of the cabinet, and had not yet been decided, but I should be the very first person to whom he would communicate the result. Intimating a desire to converse with me, informally and unofficially, upon the subject, I informed him that I had no instructions whatever from my own government in relation to it, but, as an individual, I was willing frankly to express my opinions. From what passed between us, I should consider it a breach of confidence in me to report his private opinions on a question still pending before the cabinet council and on which its members are probably divided.

I can, however, have no objection to repeat to you the substance of my own observations.

I said that the Supreme Court of the United States had adopted, in common with their own courts, the principle that a belligerent had a right, under the law of nations, to capture the goods of an enemy on board the vessel of a friend, and that he was bound to restore the goods of a friend captured on board the vessel of an enemy. That, from a very early period of our history, we had sought, in favor of neutral commerce, to change this rule by treaties with different nations, and instead thereof to adopt the principle that the flag should protect the property under it, with the exception of contraband of war. That the right of search was, at best, an odious right, and ought to be restricted as much as possible. There was always danger, from its exercise, of involving the neutral in serious difficulty with the belligerent. The captain of a British man-of-war or privateer would meet an American vessel on the ocean and board her for the purpose of ascertaining whether she was the carrier of enemies' property. Such individuals, especially, as their own interest was deeply involved in the question, were not always the most competent persons to conduct an investigation of this character. They were too prone to feel might and forget right. On the other hand, the American captain of the vessel searched would necessarily be indignant at what he might believe to be the unjust and arbitrary conduct of the searching officer. Hence bad blood would be the result, and constant and dangerous reclamations would arise between the two nations.

I need not inform his lordship that our past history had fully justified such apprehensions. On the other hand, if the rule that "free ships shall make free goods" were

established, the right of the boarding officer would be confined to the ascertainment of the simple facts, whether the flag was *bona fide* American, and whether articles contraband of war were on board. He would have no investigation to make into the ownership of the cargo. If, superadded to this rule, the corresponding rule were adopted, that "enemy's ships shall make enemy's goods," the belligerent would gain nearly as much by the latter as he had lost by the former; and this would be no hardship on the neutral owner of such goods, because he would place them on board an enemy's vessel with his eyes open, and fully sensible of the risk of capture.

I observed that the government of the United States had not, to my recollection, made any treaties recently on the principle of "free ships, free goods;" and the only reason, I presumed, was, that until the strong maritime nations, such as Great Britain, France, and Russia, should consent to enter into such treaties, it would be but of little avail to conclude them with the minor powers.

This, I believe, is a fair summary of all I said, at different times, in the course of a somewhat protracted conversation, and I hope it may meet your approbation.

I shall not be astonished if the British government should yield their long-cherished principle, and adopt the rule that the flag shall protect the cargo. I know positively that Sweden and Norway, Denmark, the Netherlands, and Prussia are urging this upon them; but what I did not know until the day before yesterday was, that the government of France was pursuing the same course.

In this connection, I feel it to be my duty to say that the correspondence of Mr. Schroeder, our chargé d'affaires at Stockholm, a gentleman with whom I am not personally acquainted, has furnished me the earliest and most accurate information of the proceedings of the northern powers on questions which may affect the neutral interests of the United States.

Lord Clarendon referred to our neutrality law (of April 20, 1818) in terms of high commendation, and pronounced it superior to their own, especially in regard to privateers. They are evidently apprehensive that Russian privateers may be fitted out in the ports of the United States to cruise against their commerce, though in words his lordship expressed no such apprehension. Would it not be advisable, after the war shall have fairly commenced, for the President to issue his proclamation calling upon the proper official authorities to be vigilant in executing this law? This could not fail to prove satisfactory to all the belligerents.

Yours, very respectfully,

JAMES BUCHANAN.

Hon. W. L. MARCY, *Secretary of State.*

Mr. Buchanan to Mr. Marcy.

[Extract.]

No. 25.]

LEGATION OF THE UNITED STATES,
London, March 17, 1854.

Sir: Lord Clarendon sent for me yesterday, and, in compliance with his promise, read me the declaration which had been prepared for her Majesty, specifying the course she had determined to pursue toward neutral commerce during the present war. It announces distinctly, not only that the neutral flag shall protect the cargo, except in cases of contraband, but that the goods of neutrals captured on board an enemy's vessel shall be restored to their owners. It fully adopts the principle that "free ships shall make free goods," and also secures from confiscation the property of a friend found on board the vessel of an enemy.

The declaration on the subject of blockades, so far as I could understand it, from the reading, is entirely unexceptionable, and in conformity with the doctrines which have always been maintained by the government of the United States.

Her Majesty also declares that she will issue no commissions to privateers, or letters of marque, during the war.

His lordship then asked me how I was pleased with it; and I stated my approbation of it in strong terms.

I said that, in one particular, it was more liberal toward neutral commerce than I had ventured to hope, and this was in restoring the goods of a friend, though captured on the vessel of an enemy.

He remarked that they had encountered great difficulties in overcoming their practice for so long a period of years, and their unvarying judicial decisions; but that modern civilization required a relaxation in the former severe rules, and that war should be conducted with as little injury to neutrals as was compatible with the interest and safety of belligerents. He also observed that he had repeated the conversation which

he had held with me on these subjects to the cabinet council, and this had much influence in inducing them to adopt their present liberal policy toward neutrals.

He then expressed the hope that their course would prove satisfactory to the government of the United States; and I assured him that I had no doubt it would prove highly gratifying to them.

I asked him if I were at liberty, in anticipation of the publication of her Majesty's declaration, to communicate its substance to yourself; and he replied, certainly I was.

It had not yet undergone the last revision of the cabinet; but the principles stated in it had received their final approbation, and would not be changed.

If our shipping interest in the United States should feel as anxious upon this subject as American owners of vessels in this country, you may deem it advisable to publish a notice of the practice which will be observed by Great Britain and France toward neutrals during the continuance of the present war; and to this I can perceive no objection.

Yours, very respectfully,

JAMES BUCHANAN.

Hon. WM. L. MARCY,
Secretary of State.

Mr. Buchanan to Mr. Marcy.

[Extract.]

No. 26.]

LEGATION OF THE UNITED STATES,
London, March 24, 1854.

SIR: In my last dispatch, (No. 25,) of the 17th instant, I omitted, for want of time, to refer to the conversation between Lord Clarendon and myself on the general subject of privateering. He did not propose the conclusion of a treaty between Great Britain and the United States for its suppression; but he expressed a strong opinion against it, as inconsistent with modern civilization, and liable to great abuses. He spoke in highly complimentary terms of the treaties of the United States with different nations, stipulating that if one of the parties be neutral and the other belligerent, the subjects of the neutral accepting commissions as privateers to cruise against the other from the opposing belligerent shall be punished as pirates.

These ideas were, doubtless, suggested to his mind by the apprehension felt here that Americans will, during the existing war, accept commissions from the Emperor of Russia, and that our sailors will be employed to cruise against British commerce.

In short, although his lordship did not propose a treaty between the two governments for the total suppression of privateering, it was evident that this was his drift.

In answer, I admitted that the practice of privateering was subject to great abuses; but it did not seem to me possible, under existing circumstances, for the United States to agree to its suppression, unless the great naval powers would go one step further, and consent that war against private property should be abolished altogether upon the ocean, as it had already been upon the land. There was nothing really different in principle or morality between the act of a regular cruiser and that of a privateer in robbing a merchant vessel upon the ocean, and confiscating the property of private individuals on board for the benefit of the captor.

But how would the suppression of privateering, without going further, operate upon the United States? Suppose, for example, we should again unfortunately be engaged in a war with Great Britain, which I earnestly hoped might never be the case, to what a situation must we be reduced if we should consent to abolish privateering.

The navy of Great Britain was vastly superior to that of the United States in the number of vessels of war. They could send cruisers into every sea to capture our merchant vessels, while the number of our cruisers was comparatively so small as to render anything like equality in this respect impossible. The only means which we would possess to counterbalance, in some degree their far greater numerical strength would be to convert our merchant vessels, cast out of employment by the war, into privateers, and endeavor, by their assistance, to inflict as much injury on British as they would be able to inflict on American commerce.

The genuine dictate of Christianity and civilization would be to abolish war against private property upon the ocean altogether, and only employ the navies of the world in public warfare against the enemy, as their armies were now employed; and to this principle thus extended it was highly probable the government of the United States would not object.

Here the conversation on this particular subject ended in a good-natured manner;

and I am anxious to learn whether what I have said in relation to it meets your approbation.

Yours, very respectfully,

JAMES BUCHANAN.

Hon. WM. L. MARCY,
Secretary of State.

Mr. Buchanan to Mr. Marcy.

[Extract.]

No. 27.]

LEGATION OF THE UNITED STATES,
London, March 31, 1854.

SIR:

You will perceive that her Majesty's declaration concerning the commerce of neutrals is substantially the same as that which I informed you it would be in my dispatch of the 17th instant. It has given great satisfaction to the diplomatic representatives of neutral nations in London, and to none more than to myself.

Indeed, it is far more liberal than I had any reason to expect it would have been, judging from the judicial decisions and the past history of the country.

Yours, very respectfully,

JAMES BUCHANAN.

Hon. W. L. MARCY,
Secretary of State.

Mr. Marcy to Mr. Buchanan.

[Extract.]

No. 35.]

DEPARTMENT OF STATE,
Washington, April 13, 1854.

SIR: The course indicated to you by Lord Clarendon, as that which Great Britain had determined to pursue in the event of a European war in regard to neutral commerce, is entirely satisfactory to this government as to the two main points.

The propositions submitted to you—the same, I presume, which Mr. Crampton has confidentially submitted to me—are, 1st. That free ships make free goods, except articles contraband of war; and 2d. That neutral property, not contraband, found on board of enemies' ships, is not liable to confiscation. The United States have long favored the doctrine that the neutral flag should protect the cargo, and endeavored to have it regarded and acted on as a part of the law of nations. There is now, I believe, a fair prospect of getting this sound and salutary principle incorporated into the international code.

There can be, I presume, no doubt that France cheerfully concurs with Great Britain in adopting this principle as the rule of conduct in the pending war. I have just received a dispatch from Mr. Mason, in which he details conferences he has had with the French ministers on the subject of neutral rights; but it does not appear from the accounts he has given of them that the French government had intimated to him the course it intended to pursue in regard to neutral ships and neutral property on board of enemies' ships. I have no doubt, however, that France has more readily acquiesced in the indicated policy than Great Britain.

Both Great Britain and France, as well as Russia, feel much concerned as to the course which our citizens will take in regard to privateering. The two former powers would, at this time, most readily enter into conventions stipulating that the subjects or citizens of the party, being a neutral, who shall accept commissions or letters of marque and engage in the privateer service, the other party being a belligerent, may be treated as pirates. A stipulation to this effect is contained in several of our treaties, but I do not think the President would permit it to be inserted in any new one. His objection to it does not arise from a desire to have our citizens embark in foreign belligerent service; but, on the contrary, he would much regret to see them take such a course. Our laws go as far as those of any nation—I think further—in laying restraints upon them in regard to going into foreign privateer service. This government is not prepared to listen to any proposition for a total suppression of privateering. It would not enter into any convention, whereby it would preclude itself from resorting to the merchant marine of the country in case it should become a belligerent party.

The declaration which her Britannic Majesty's government proposes to issue is distinct in interdicting to neutrals the coasting and colonial trade with the belligerent, if not enjoyed by them previous to the war. In regard to this trade, you are aware that Great Britain asserted principles, in the wars resulting from the French revolution,

before she issued her obnoxious orders in council, which this country held to be in violation of the law of nations. Should she still adhere to those principles in the coming conflict in Europe, and have occasion to apply them to our commerce, they will be seriously controverted by the United States, and may disturb our friendly relations with her and her allied belligerents. The liberal spirit she has indicated in respect to the cargoes under a neutral flag, and neutral property which may be found on board of enemies' ships, gives an implied assurance that she will not attempt again to assert belligerent rights which are not well sustained by the well-settled principles of international law.

In some respects, I think the law of blockade is unreasonably rigorous toward neutrals, and they can fairly claim a relaxation of it. By the decisions of the English courts of admiralty—and ours have generally followed in their footsteps—a neutral vessel which happens to be in a blockaded port is not permitted to depart with a cargo, unless that cargo was on board at the time when the blockade commenced, or was first made known. Having visited the port in the common freedom of trade, a neutral vessel ought to be permitted to depart with a cargo without regard to the time when it was received on board.

The right of search has heretofore been so freely used, and so much abused, to the injury of our commerce, that it is regarded as an odious doctrine in this country, and if exercised against us harshly in the approaching war will excite deep and wide-spread indignation. Caution on the part of belligerents in exercising it toward us, in cases where sanctioned by usage, would be a wise procedure. As the law has been declared by the decisions of courts of admiralty and elementary writers, it allows belligerents to search neutral vessels for articles contraband of war and for enemies' goods. If the doctrine is so modified as to exempt from seizure and confiscation enemies' property under a neutral flag, still the right to seize articles contraband of war on board of neutral vessels implies the right to ascertain the character of the cargo. If used for such a purpose and in a proper manner, it is not probable that serious collisions would occur between neutrals and belligerents.

A persistent resistance by a neutral vessel to submit to a search renders it confiscable, according to the settled determinations of the English admiralty. It would be much to be regretted if any of our vessels should be condemned for this cause, unless under circumstances which compromised their neutrality.

I am, sir, respectfully, your obedient servant,

JAMES BUCHANAN, Esq., &c., &c., &c.

W. L. MARCY.

Mr. Mason to Mr. Marcy.

[Extracts.]

No. 12.]

LEGATION OF THE UNITED STATES,
Paris, March 22, 1854.

SIR:

The allies, too, find themselves under the necessity of providing for future contingencies of a most delicate nature, by instructions to their naval commanders, acting in concert, in respect to neutral rights pending the war. In the past history of the two countries the principles of France on this subject have been, as you are aware, entirely at variance with those held by England. It is both delicate and difficult to produce harmony in their combined action. The deep interest of the European states not engaged in this war, in the adoption by the allies, with their absolute naval supremacy over Russia, of measures which will give to the commerce of neutrals the most perfect security, added to the earnest desire of the allies to secure their co-operation, if to be had, and if not, to avoid their active opposition, has given to the subject the deepest interest, and contributed to prepare the way for a fair and equitable adjustment. I have looked to this subject with deep anxiety, and have endeavored to guard against any possible violation of our rights as a neutral, by the measures of the belligerents in the prosecution of the war. I have embraced every opportunity since I have been in Paris of impressing, by informal conversation, on the minister, and with the representatives of foreign powers here, that if those liberal principles which the United States have always maintained were not recognized, my government could not be satisfied; that with her vast commercial marine, her enormous surplus products, her export and import trade, and her large investments in the fisheries, in the Pacific and Atlantic Oceans, it was impossible that my country could submit to any practical exercise of the rights of war which would subject her citizens, their business, and their vessels to vexatious searches, captures, or detentions; that except in cases of contraband, her flag must protect the cargo which it covered, and the high seas must be what the God of nature

intended it—a free highway for all nations. The point on which most apprehension is felt is the engagement of citizens and vessels of the United States in privateering under the Russian flag. I have urged that, with every disposition to prevent such unlawful proceedings by our people, the government would find much difficulty in enforcing its laws unless sustained by public opinion in the United States, and aided by the people, as well as by officers of government; that with the vast extent of sea-coast of the United States the government could not have information of the preparation of vessels for such enterprises, in all cases, in time to suppress them, unless the *people* felt an anxious desire that the laws should be executed; that if the allies adopted just and liberal measures in regard to neutral rights, it would give profitable returns to a safe business, and the entire mercantile community of the United States would, from a sense of justice and of national duty, as well as of their own interest, be found ready to aid the government in executing the laws; that, tempting as might be the offers to engage under the Russian flag to cruise against the commerce of the allies, the danger of the service, the difficulty of realizing their prizes by adjudication, and, above all, the actual profit of lawful trade, under equitable and fair rules in respect to neutral rights, and the public satisfaction at seeing just principles established among nations, would probably prevent our citizens, however bold and adventurous, from taking part in the assaults on the commerce of the allies.

The combination of circumstances is most auspicious to the establishment of our cherished principles of neutral rights—the rights of the weaker powers against the aggressive pretensions of the strong; and the considerations of policy are too grave, in their favor, to believe that so sagacious a statesman as Mr. Drouyn de Lhuys will fail to see them in all their force, nor is there any doubt that he will be sustained by the Emperor.

It is fortunate, too, that the present state of things will give to the British cabinet a disposition to regard with favor the relaxation and liberalization of their ancient views on this subject.

I am, &c.,

J. Y. MASON.

Hon. W. L. MARCY,
Secretary of State.

Mr Mason to Mr Marcy.

[Extract.]

No. 14.]

LEGATION OF THE UNITED STATES,
Paris, March 30, 1854.

SIR:

In the *Moniteur* of this morning appeared a report of the minister of foreign affairs, and the declaration of the Emperor of France, on the subject of neutrals, letters of marque, &c., pending the war. I inclose slips of the *Moniteur* containing these several important documents. I think that you will observe in them satisfactory recognition of liberal principles in regard to the rights of neutrals.

I have the honor, &c.,

J. Y. MASON.

Hon. W. L. MARCY,
Secretary of State.

The Chargé d'Affaires of Denmark to Mr. Marcy.

[Translation.]

DANISH LEGATION,
Washington, January 28, 1854.

The present political complications consequent upon the declaration of war by the Ottoman Porte, and the possible contingency of a maritime war, have imposed on the government of his Majesty the King of Denmark the obligation of giving an earnest attention to the effects which may be their result. Its sincere desire is to preserve intact the relations of friendship and good understanding which so happily reign between Denmark and all the governments of Europe. Having nothing more at heart than to maintain and cement those relations, his Majesty the King of Denmark regards it as a duty not to leave the allied and friendly powers in ignorance of the line of policy which, for the attainment of said object, he proposes to follow in case of the above-mentioned event.

Guided as much by the frank friendship which reigns between the sovereigns and people of Denmark and of the United Kingdoms of Sweden and Norway, as by that community of interests and political principles which reciprocally sustains and reinforces each other, his Majesty the King of Denmark has found himself called, in the first place, to concert himself with his august friend, neighbor, and ally, the King of Sweden and Norway, on the measures eventually to be adopted in order to establish a common action proper to facilitate by its identity the application of the system agreed upon. These overtures having met with that favorable reception one had a right to expect, it is in conformity with the resolutions taken by the two sovereigns that the undersigned, chargé d'affaires of his Majesty the King of Denmark near the government of the United States of America, has received the order of his august sovereign to bring to the knowledge of the government of the United States the general rules which his Majesty the King of Denmark has deemed it proper to establish in order to fix the position of his states in the deplorable event of hostilities breaking out between the friendly and allied powers of the King.

The system which his Majesty the King of Denmark intends to follow and to apply invariably is that of a strict neutrality, founded on a loyal, impartial, and equal respect for the rights of all the powers. This neutrality, according to the like views of the two courts, imposes on the government of his Majesty the King of Denmark the following obligations, and assures him the following advantages:

1. To abstain, during the contest which may take place, from every participation, direct or indirect, in favor of one of the contending parties, and to the detriment of the other.

2. To admit into the ports of the monarchy the ships of war and of commerce of the belligerent parties, the government reserving for itself, however, the faculty of interdicting to the first, as well as to the transport ships belonging to the respective fleets of the belligerent powers, the entry of the port of Christianso.

The sanitary and police regulations which circumstances may have rendered or will render necessary are of course to be observed and respected. Privateers will not be admitted into the ports, nor tolerated on the anchorages, of the states of his Danish Majesty.

3. To grant to the vessels of the belligerent powers the faculty of providing themselves, in the ports of the monarchy, with all goods and merchandises of which they may be in want, with the exception of articles reputed contraband of war.

4. To exclude from the ports of the monarchy the entry—recognized cases of distress excepted—the condemnation, and the sale of all prizes; and, finally,

5. To enjoy in the commercial relations of the states of his Danish Majesty, with the countries at war, every security and all facilities for Danish vessels, as well as their cargoes; with the obligation, however, for said vessels to conform to the general rules established and recognized in the special cases of declared and effective blockades.

Such are the general principles of the neutrality adopted by his Majesty the King of Denmark in case a general war in Europe should break out. The King flatters himself that they will be recognized as conformable to the law of nations, and that their loyal and faithful observation will enable his Majesty to cultivate with the friendly and allied powers those relations which, for the welfare of his people, he has so much at heart to preserve from all interruptions.

Requesting the honorable Secretary of State of the United States to bring the present communication to the knowledge of the government of the United States, the undersigned avails himself, &c.

TORBEN BILLE.

Hon. W. S. MARCY, &c., &c., &c.

The chargé d'affaires of Sweden and Norway to Mr. Marcy.

[Translation.]

LEGATION OF SWEDEN AND NORWAY,
Washington, January 28, 1854.

The present political complications consequent upon the declaration of war by the Ottoman Porte, and the possible contingency of a maritime war, have imposed on the government of his Majesty the King of Sweden and Norway the obligation of giving an earnest attention to the effects which may be their result. Its sincere desire is to preserve intact the relations of friendship and good understanding which so happily reign between Sweden and Norway and all the governments of Europe. Having nothing more at heart than to maintain and cement those relations, his Majesty the King of Sweden and Norway regards it as a duty not to leave the allied and friendly powers in ignorance of the line of policy which, for the attainment of said object, he proposes to follow in case of the above-mentioned event.

Guided as much by the frank friendship which reigns between the sovereigns and people of Sweden and Norway and of the kingdom of Denmark, as by that community of interests and political principles which reciprocally sustains and re-enforces each other, his Majesty the King of Sweden and Norway has found himself called, in the first place, to concert himself with his august friend, neighbor, and ally, the King of Denmark, on the measures eventually to be adopted in order to establish a common action proper to facilitate, by its identity, the application of the system agreed upon. These overtures having met with that favorable reception one had a right to expect, it is in conformity with the resolutions taken by the two sovereigns that the undersigned, chargé d'affaires of his Majesty the King of Sweden and Norway near the government of the United States of America, has received the order of his august sovereign to bring to the knowledge of the government of the United States the general rules which his Majesty the King of Sweden and Norway has deemed it proper to establish in order to fix the position of his states in the deplorable event of hostilities breaking out between the friendly and allied powers of the King.

The system which his Majesty the King of Sweden and Norway intends to follow, and to apply invariably, is that of strict neutrality, founded on a loyal, impartial, and equal respect for the rights of all the powers. This neutrality, according to the like views of the two courts, imposes on the government of his Majesty the King of Sweden and Norway the following obligations and assures him the following advantages:

1. To abstain, during the contest that may take place, from every participation, direct or indirect, in favor of one of the contending parties, and to the detriment of the others.

2. To admit into the ports of the monarchy the ships of war and of commerce of the belligerent parties; the government reserving for itself, however, the faculty of interdicting to the first, as well as to the transport ships belonging to the respective fleets of the belligerent powers, the entry of the port of Christiana.

The sanitary and police regulations which circumstances may have rendered or will render necessary, are of course to be observed and respected. Privateers will not be admitted into the ports, nor tolerated on the anchorages, of the states of his Swedish and Norwegian Majesty.

3. To grant to the vessels of the belligerent powers the faculty of providing themselves in the ports of the monarchy with all goods and merchandises of which they may be in want, with the exception of articles reputed contraband of war.

4. To exclude from the ports of the monarchy the entry—recognized cases of distress excepted—the condemnation, and the sale of all prizes; and, finally,

5. To enjoy in the commercial relations of the states of his Swedish and Norwegian Majesty, with the countries at war, every security and all facilities for Swedish and Norwegian vessels, as well as their cargoes; with the obligation, however, for said vessels to conform to the general rules established and recognized in the special cases of declared and effective blockades.

Such are the general principles of the neutrality adopted by his Majesty the King of Sweden and Norway in case a general war in Europe should break out. The King flatters himself that they will be recognized as conformable to the law of nations, and that their loyal and faithful observation will enable his Majesty to cultivate with the friendly and allied powers those relations which, for the welfare of his people, he has so much at heart to preserve from all interruption.

Requesting the honorable Secretary of State of the United States to bring the present communication to the knowledge of the government of the United States, the undersigned avails himself, &c.

G. DE SIBBERN.

Mr. Marcy to the Danish chargé d'affaires.

DEPARTMENT OF STATE,
Washington, February 14, 1854.

The undersigned, Secretary of State of the United States, has the honor to acknowledge the receipt of the note which the chargé d'affaires of his Majesty the King of Denmark addressed to this department on the 28th ultimo, bringing to the knowledge of this government the general rules which it has been deemed proper by his Majesty the King of Denmark, in concert with his Majesty the King of Sweden and Norway, to establish, in order to fix and define the position of Denmark in the event of hostilities breaking out among the powers of Europe in consequence of the existing relations between Russia and the Ottoman Porte.

The undersigned has the honor to inform Mr. Torben Bille that, at his request, the views of his government have been submitted to the President, and that they are regarded by him with all the interest which the occasion demands. Mr. Bille may rest assured that the government and people of this country feel deep solicitude in the events now transpiring in Europe, not only on account of the general anxiety they occasion

to those powers more nearly exposed to the menaced evils, but also as having a most important ulterior bearing upon the United States.

The undersigned avails himself of this occasion to offer to Mr. Bille a renewed assurance of his high consideration.

W. L. MARCY.

MR. TORBEN BILLE, *fc., &c., &c.*

[The above note, *mutatis mutandis*, was also addressed to the Chevalier de Sibbern, chargé d'affaires of Sweden and Norway.]

Mr. Schroeder to Mr. Marcy.

No. 125.]

LEGATION OF THE UNITED STATES,
Stockholm, April 10, 1854.

SIR: A Swedish ordinance was published yesterday defining the rights and obligations of such of the people as are engaged in commerce and navigation. The document is interesting as forming part of the history of the northern neutrality. For this and other reasons I have translated it entire. The marginal notes which I shall add will enable you to refer to any clause that may chiefly interest you.

You will best know what reliance may be safely placed upon the equitable promises which have been held out to neutrals by the belligerent powers; seemingly triumphs of the enlightened age over historic reminiscences of war. It would ill become me to offer an opinion of the realities to be looked for; but the forebodings of the more intelligent men of this country weigh upon the community; and, although unconfessed by government, they are the real controlling influences in the council of state.

I have the honor to remain, with great respect, sir, your obedient servant,

F. SCHROEDER.

Hon. WM. L. MARCY,
Secretary of State.

OFFICIAL NOTICE.

[Translated.]

What must be observed for the security of Swedish commerce and navigation during war between foreign maritime powers.

We, Oscar, &c., make known, that in view of imminent hostilities between foreign maritime powers, and in order that those of our faithful subjects who are engaged in commerce and navigation may to the uttermost observe the obligations and prudence necessary for securing to the Swedish flag, as neutral, future freedom and immunity, and in order that everything may be avoided which can possibly render Swedish commerce and navigation suspected and exposed to wrong, we have found good to repeal whatever in this regard has been heretofore ordained, and we proclaim the following:

SEC. 1. In order to secure to the Swedish flag, as neutral, future advantages and immunity, Swedish vessels must be provided with the documents required by existing laws, in proof of their nationality. These documents should always be at hand during the voyage.

SEC. 2. No ship-captain should have incorrect or double ship's papers and manifests. He is also forbidden, in any case, or under any pretext whatever, to hoist a foreign flag.

SEC. 3. If, while a Swedish ship is abroad, the crew shall be diminished by death, illness, desertion, or any other cause, so that the necessary working of the ship cannot be performed without the aid of foreign seamen, the subjects of neutral states must be preferred; and in no case shall the number of subjects of belligerent states on board exceed one-third of the whole crew. Every such change in the crew, as well as the cause thereof, should be entered on the muster-roll, and the correctness of the entry should be attested by a Swedish consul or vice-consul, or, in the absence of such officer, by a legal magistrate, notary public, or any responsible witness, according to the custom of the country.

SEC. 4. Swedish ships, as neutrals, may freely enter the harbors and sail along the coasts of belligerents; yet must no captain attempt to enter a blockaded port after due notice given of blockade. By blockaded ports are understood only such as are so guarded by one or more hostile ships of war, stationed so near that a ship cannot enter without evident danger, (*utan ögonskenlig fara.*)

SEC. 5. All kinds of goods, even such as belong to belligerents, may be carried in

Swedish ships as neutral, except contraband of war; by which are understood cannons, mortars, all kinds of arms, bombs, grenades, balls, flints, linestocks, gunpowder, saltpeter, sulphur, cuirasses, pikes, belts, cartouch-boxes, saddles, bridles, and all other manufactures (*tillverkningar*) immediately applicable to warlike purposes: herein, however, are not included a stock of such articles necessary for the defense of ship and crew.

In regard to contraband of war, should any change or addition be made, in consequence of agreement between us and other powers, a separate notice thereof shall be proclaimed.

SEC. 6. Swedish sea-captains are forbidden, unless under actual force—and in that case after formal protest—to carry dispatches, troops, articles contraband of war, for any belligerent power.

SEC. 7. Vessels belonging to belligerents may bring into, or take away from, Swedish harbors, any and every kind of goods, provided they are permitted by the tariff, and always excepting such as are contraband of war.

SEC. 8. No Swedish subject may fit out or arm a vessel to be used as privateer against any of the belligerent powers, their subjects or property, or have anything to do with such vessel. Moreover, no Swedish subject is permitted to take service on board of any foreign privateer.

SEC. 9. Foreign privateers are not permitted to enter a Swedish harbor, or to remain at any Swedish roads, nor shall captures be brought into Swedish harbors, unless in case of evident distress, ("sea necessity,") and in no case shall captures be adjudicated or sold in Sweden. Our subjects are strictly forbidden also to buy from privateers captured goods of any description whatever.

SEC. 10. When a Swedish shipmaster navigates without the protection of armed convoy, and is hailed at sea by a belligerent entitled to examine his ship's papers, he should neither refuse nor seek to evade this ceremony, but he is bound to exhibit his papers honestly and openly, and to take care that neither before nor during the visit any document relating to ship or cargo be altered, hidden, or thrown overboard.

SEC. 11. When a Swedish captain is under convoy, let him conform to the rules set forth in the royal ordinance of June 10, 1812.*

SEC. 12. While Swedish sea-captains duly observe the foregoing, they ought, according to treaties and law of nations, to enjoy free, unobstructed navigation; but if, nevertheless, they be wronged, they may expect from our ministers and consuls abroad fullest support in all that, in pursuit of justice and indemnity, they can reasonably demand; whereas he who neglects or disregards what is now ordained for his observance, may blame himself for whatever consequences may ensue, without depending upon our gracious protection.

SEC. 13. If a Swedish ship be seized, the captain should deliver to the consul or vice-consul in the harbor to which he is conducted, or in the absence of a consul or vice-consul, then to the nearest such officer, a full and fair report of the circumstances and proceedings attending the case. All concerned must conform obediently to this ordinance.

In testimony whereof, we have signed this with our own hand, and permit to be affixed our royal seal. Stockholm Palace, April 8, 1854.

OSCAR. [L. s.]

J. F. FAHROENS.

Mr. Marcy to Mr. Seymour.

No. 6.]

DEPARTMENT OF STATE,
Washington, May 9, 1854.

SIR: You have probably seen the joint declaration of Great Britain and France referred to in the inclosed copy of a note to Mr. Crampton, her Britannic Majesty's minister to this government. This declaration was communicated to me by the ministers of France and England, accompanied by a note, to which I replied. The note to the French minister is substantially the same as that sent to Mr. Crampton.

It is the settled purpose of this government to pursue such a course, during the present war in Europe, as will give no cause to either belligerent party to complain, and it sincerely hopes neither will give this country any ground for dissatisfaction.

*I have examined the above-cited ordinance in hopes to find in it the claim that neutral merchant vessels under convoy are exempt from actual visit of belligerents, and that an assurance by the commander of the convoying man-of-war in relation to the vessels under his protection must suffice. These things do not appear in the ordinance referred to, nor in that at present translated; but I have been officially informed that the Swedish government claim these principles as international rights, and as expressed in article XII of our treaty with Sweden of 1783, revived in the existing treaty, article XVII. The Swedish ordinance of 1812, cited above, contains sailing directions for convoys, and national regulations for the commanders thereof.

F. SCHROEDER.

The danger of a misunderstanding is much less with Russia than with Great Britain and France. I believe, however, these latter powers are desirous to pursue a fair and liberal course toward neutrals, and particularly toward the United States.

You will observe that there is a suggestion in the inclosed for a convention among the principal maritime nations to unite in a declaration that free ships should make free goods, except articles contraband of war. This doctrine has had heretofore the sanction of Russia, and no reluctance is apprehended on her part to becoming a party to such an arrangement. Great Britain is the only considerable power which has heretofore made a sturdy opposition to it. Having yielded it for the present in the existing war, she thereby recognizes the justice and fairness of the principle, and would hardly be consistent if she should withhold her consent to an agreement to have it hereafter regarded as a rule of international law. I have thrown out the suggestion to Great Britain and France to adopt this as a rule to be observed in all future wars. The President may instruct me to make the direct proposition to these and other powers. Should Russia, Great Britain, and France concur with the United States in declaring this to be the doctrine of the law of nations, I do not doubt that the other nations of the world would at once give their consent and conform their practice to it. If a fair opportunity should occur, the President requests you to ascertain the views of his Majesty the Emperor of Russia on the subject.

The decisions of admiralty courts in this and other countries have frequently affirmed the doctrine that a belligerent may seize and confiscate enemy's property found on board of a neutral vessel; the general consent of nations, therefore, is necessary to change it. This seems to be a most favorable time for such a salutary change. From the earliest period of this government, it has made strenuous efforts to have the rule that free ships make free goods, except contraband articles, adopted as a principle of international law; but Great Britain insisted on a different rule. These efforts, consequently, proved unavailing; and now it cannot be recognized, and a strict observance of it secured, without a conventional regulation among the maritime powers. This government is desirous to have all nations agree in a declaration that this rule shall hereafter be observed by them respectively when they shall happen to be involved in any war, and that, as neutrals, they will insist upon it as a neutral right. In this the United States are quite confident that they will have the cordial consent and co-operation of Russia.

I am, sir, respectfully, your obedient servant,

W. L. MARCY.

THOMAS H. SEYMOUR, Esq., *fc.*, *fc.*, *fc.*

APPENDIX No. VI.

REPORT OF THE NEUTRALITY LAWS COMMISSIONERS.

REPORT OF THE NEUTRALITY LAWS COMMISSIONERS, TOGETHER WITH
AN APPENDIX CONTAINING REPORTS FROM FOREIGN STATES, AND OTHER
DOCUMENTS.

[Presented to both houses of Parliament by command of her Majesty.]

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COMMISSION.

Victoria, by the grace of God of the United Kingdom of Great Britain and Ireland
Queen, defender of the faith.

To our right trusty and well-beloved Councillor Robert Monsey Baron Cranworth; our right trusty and well-beloved Richard Monckton Baron Houghton; our right trusty and well-beloved Councillor Sir Hugh McCalmont Cairns, knight, a judge of the court of appeal in chancery; our right trusty and well-beloved Councillor Stephen Lushington, doctor of civil law, judge of the high court of admiralty; our right trusty and well-beloved Councillor Sir William Erle, knight; our trusty and well-beloved Sir George William Wilshere Bramwell, knight, one of the barons of the court of exchequer; our trusty and well-beloved Sir Robert Joseph Phillimore, knight, doctor of civil law; our advocate general; our trusty and well-beloved Sir Roundell Palmer, knight; our trusty and well-beloved Travers Twiss, doctor of civil law; our trusty and well-beloved William George Granville Venables Vernon Harcourt, esquire, one of our counsel learned in the law; our trusty and well-beloved Thomas Baring, esquire; our trusty and well-beloved William Henry Gregory, esquire, and our trusty and well-beloved William Edward Forster, esquire, greeting :

Whereas we have deemed it expedient that a commission should forthwith issue to inquire into and consider the character, working, and effect of the laws of this realm, available for the enforcement of neutrality during the existence of hostilities between other states with whom we are at peace; and to inquire and report whether any and what changes ought to be made in such laws for the purpose of giving to them increased efficiency and bringing them into full conformity with our international obligations :

Now know ye, that we, reposing great trust and confidence in your knowledge and ability, have authorized and appointed, and do by these presents authorize and appoint, you the said Robert Monsey Baron Cranworth, Richard Monckton Baron Houghton, Sir Hugh McCalmont Cairns, Stephen Lushington, Sir William Erle, Sir George William Wilshere Bramwell, Sir Robert Joseph Phillimore, Sir Roundell Palmer, Travers Twiss, William George Granville Venables Vernon Harcourt, Thomas Baring, William Henry Gregory, and William Edward Forster, to be our commissioners for the purposes aforesaid.

And for the better effecting the purposes of this our commission, we do by these presents give and grant to you, or any five or more of you, full power and authority to call before you such persons as you shall judge likely to afford you any information upon the subject of this our commission, and also to call for, have access to, and examine all such books, documents, registers, and records as may afford the fullest information on the subject, and to inquire of and concerning the premises by all other lawful ways and means whatsoever.

And we do by these presents will and ordain that this our commission shall continue in full force and virtue, and that you our said commissioners, or any five or more of you, may from time to time proceed in the execution thereof, and of every matter and thing therein contained, although the same be not continued from time to time by adjournment.

And we do further ordain that you, or any five or more of you, may have liberty to report your proceedings under this commission from time to time if you should judge it expedient so to do.

And our further will and pleasure is that you do, with as little delay as possible, report to us under your hands and seals, or under the hands and seals of any five or more of you, your opinion upon the several points herein submitted for your consideration.

And for your assistance in the due execution of this our commission, we have made choice of our trusty and well-beloved Francis Phipps Onslow, esquire, barrister-at-law, to be secretary to this our commission, and to attend you, whose services and assistance we require you to use from time to time as occasion may require.

Given at our court at St. James's the 30th day of January, 1867, in the 30th year of our reign.

By her Majesty's command.

S. H. WALPOLE.

REPORT.

To the Queen's most excellent Majesty :

We, your Majesty's commissioners, appointed "to inquire into and consider the character, working, and effect of the laws of this realm available for the enforcement of neutrality during the existence of hostilities between other states with whom your Majesty is at peace, and to inquire and report whether any and what changes ought to be made in such laws for the purpose of giving to them increased efficiency and bringing them into full conformity with your Majesty's international obligations," have now to state to your Majesty that we have held twenty-four meetings, and, having inquired into and considered the subject so referred to us, have agreed to the following report:

The statute now available for the enforcement of neutrality during the existence of hostilities between states with whom your Majesty is at peace is the 59 Geo. III. c. 69, commonly called the "foreign enlistment act." The title of that act is "An act to prevent the enlisting or engagement of his Majesty's subjects to serve in foreign service, and the fitting out or equipping in his Majesty's dominions vessels for warlike purposes without his Majesty's license." And the preamble runs thus: "Whereas the enlistment or engagement of his Majesty's subjects to serve in war in foreign service without his Majesty's license, and the fitting out and equipping and arming of vessels by his Majesty's subjects without his Majesty's license for warlike operations in or against the dominions or territories of any foreign prince, state, potentate, or persons exercising or assuming to exercise the powers of government in or over any foreign country, colony, province, or part of any province, or against the ships, goods, or merchandise of any foreign prince, state, potentate, or persons as aforesaid, or other subjects, may be prejudicial to and tend to endanger the peace and welfare of this kingdom; and whereas the laws in force are not sufficiently effectual for preventing the same."

This, then, being the statute directly available in this country for the enforcement of neutrality, our duty has been to inquire and report whether it is susceptible of any and what amendments, and we are of opinion that it might be made more efficient by the enactment of provisions founded upon the following resolutions:

I. That it is expedient to amend the foreign enlistment act by adding to its provisions a prohibition against the preparing or fitting out in any part of her Majesty's dominions of any naval or military expedition to proceed from thence against the territory or dominions of any foreign state with whom her Majesty shall not then be at war.

II. That the first paragraph of section 7 of the foreign enlistment act should be amended to the following effect:

If any person shall within the limits of her Majesty's dominions—

(a.) Fit out, arm, dispatch, or cause to be dispatched, any ship with intent or knowl-

edge that the same shall or will be employed in the military or naval service of any foreign power in any war then being waged by such power against the subjects or property of any foreign belligerent power with whom her Majesty shall not then be at war;

(b.) Or shall within her Majesty's dominions build or equip any ship with the intent that the same shall, after being fitted out and armed either within or beyond her Majesty's dominions, be employed as aforesaid;

(c.) Or shall commence or attempt to do, or shall aid in doing, any of the acts aforesaid, every person so offending shall be deemed guilty of a misdemeanor.

III. That in order to enable the executive government more effectually to restrain and prevent attempted offenses against section 7 of the foreign enlistment act, additional provisions to the following effect should be inserted in the statute:

(a.) That if a secretary of state shall be satisfied that there is a reasonable and probable cause for believing that a ship which is within the limits of her Majesty's dominions has been or is being built, equipped, fitted out, or armed, contrary to the enactment, and is about to be taken beyond the limits, or that the ship is about to be dispatched contrary to the enactment, such secretary of state shall have power to issue a warrant stating that there is such a reasonable and probable cause for believing as above aforesaid, and upon such warrant the commissioners of customs or any other person or persons named in the warrant shall have power to arrest and search such ship, and to detain the same until it shall be either condemned or released by process of law, or in manner hereinafter mentioned.

(b.) That the power hereinbefore given to a secretary of state may, in parts of her Majesty's dominions beyond the seas, be exercised by the governor or other person having chief authority.

(c.) That power be given to the owner of the ship or his agent to apply to the court of admiralty of the place where the ship is detained, or, if there be no such court there, to the nearest court of admiralty, for its release.

(d.) That the court shall put the matter of such detention in course of trial between the applicant and the Crown, with usual admiralty appeal to the privy council.

(e.) That if the owner shall establish to the satisfaction of the court that the ship was not and is not being built, equipped, fitted out, or armed, or intended to be dispatched, contrary to the enactment, the ship shall be released and restored.

(f.) That if the owner shall fail to establish to the satisfaction of the court that the ship was not and is not being built, equipped, fitted out, or armed, or intended to be dispatched, contrary to the enactment, then the ship shall be detained till released by order of the secretary of state; nevertheless the court may, if it shall think fit, order its release, provided the owner shall give security to the satisfaction of the court that the ship shall not be employed contrary to the enactment, and provided that no proceedings are pending for its condemnation.

(g.) That if the court shall be of opinion that there was not reasonable and probable cause for the detention, and if no such cause shall appear in the course of the proceedings, the court shall have power to declare that the owner ought to be indemnified by the payment of costs and damages, which, in that case, shall be payable out of any moneys legally applicable by the commissioners of the treasury for that purpose.

(h.) That any warrant of the secretary of state shall be laid before Parliament.

(i.) That the proceedings herein provided shall not affect the power of the Crown to proceed, if it thinks fit, to the condemnation of the ship.

(k.) That the following exceptions be made from this resolution:

1. Any foreign commissioned ship.

2. Any foreign non-commissioned ship dispatched from this country after having come within it under stress of weather or in the course of a peaceful voyage, and upon which ship no fitting out or equipping of a warlike character shall have taken place in this country.

IV. That it is expedient to make the act of hiring, engaging, or procuring any person within her Majesty's dominions to go on board any ship, or to embark from any part of her Majesty's dominions, by means of false representations as to the service in which such persons are intended to be employed, with intent on the part of the person so hiring, engaging, or procuring as aforesaid, that the persons so hired, engaged, or procured as aforesaid shall be employed in any land or sea service prohibited by section 2 of the foreign enlistment act, a misdemeanor, punishable like other misdemeanors under the same section.

V. That the forms of pleading in informations and indictments under the foreign enlistment act should be simplified.

VI. That if, during the continuance of any war in which her Majesty shall be neutral, any prize not being entitled to recognition as a commissioned ship of war shall be brought within the jurisdiction of the Crown by any person acting on behalf of, or under the authority of, any belligerent government, which prize shall have been captured by any vessel fitted out during the same war for the service of such government whether as a public or a private vessel of war, in violation of the laws for the protec-

tion of the neutrality of this realm, or if any such prize shall be brought within the jurisdiction as aforesaid by any subject of the Crown, or of such belligerent government, having come into possession of such prize with notice of the unlawful fitting out of the capturing vessel, such prize should, upon due proof in the admiralty courts, at the suit of the original owner of such prize or his agent, or of any person authorized in that behalf by the government of the state to which such owner belongs, be restored.

VII. That in time of war no vessel employed in the military or naval service of any belligerent which shall have been built, equipped, fitted out, armed, or dispatched contrary to the enactment, should be admitted into any port of her Majesty's dominions.

In making the foregoing recommendations we have not felt ourselves bound to consider whether we were exceeding what could actually be required by international law, but we are of opinion that if those recommendations should be adopted, the municipal law of this realm available for the enforcement of neutrality will derive increased efficiency, and will, so far as we can see, have been brought into full conformity with your Majesty's international obligations.

We have thought it better to present our recommendations in the form of general resolutions, laying down the principles on which legislation should be framed, rather than to attempt to draw up in detail the precise form of the statute.

We have subjoined, in an appendix to this report, certain papers relating to the laws of foreign countries on this subject, which have been communicated to us by your Majesty's secretary of state for foreign affairs, together with a short historical memorandum, prepared by Mr. Abbott* for our information, and some other documents illustrative of the subject.

All which we submit to your Majesty's gracious consideration.

CRANWORTH.	[L. S.]
HOUGHTON.	[L. S.]
CAIRNS.	[L. S.]
W. ERLE.	[L. S.]
G. W. W. BRAMWELL.	[L. S.]
R. J. PHILLIMORE.	[L. S.]
ROUNDELL PALMER.	[L. S.]
T. TWISS.	[L. S.]
W. VERNON HARCOURT.	[L. S.]
T. BARING.	[L. S.]
W. H. GREGORY.	[L. S.]
W. E. FORSTER.	[L. S.]

Dr. Lushington did not sign the report, as he was, from indisposition, unable to attend the meetings after June, 1867.

REASONS GIVEN BY MR. VERNON HARCOURT FOR DISSENTING FROM CERTAIN PORTIONS OF THE REPORT.

Though the undersigned has signed the report, he wishes it to be understood that he has only signed it subject to the following observations:

In the main part of the recommendations of the report I entirely concur, more especially in those which have for their object to increase the efficiency of the power of the executive government to restrain attempted violations of the neutrality of the country.

The portions of the report with respect to the policy of which I entertain considerable doubt are those parts of resolution II, § 6, and resolution III, § a, the first of which extends the punitive power of the law, and the second the preventive authority of the executive, to the *building* of ships, apart from the question of their arming or dispatch from the realm.

My apprehension is lest such an extension of the law should unnecessarily—and if unnecessarily then unwisely—interfere with the ship-building trade of the country. It is needless to enlarge on the capital importance of that trade. As a commercial question it is one of the greatest consequence. It is, perhaps, the trade in which alone Great Britain still retains an unrivalled superiority. Everything which tends unnecessarily to hamper or embarrass it must be regarded with suspicion and adopted with caution. It is not, of course, argued that the interests of a trade, however valuable, should not yield to considerations of imperial necessity and of international obligation, if there be such an obligation. But this particular branch of trade has a special national value which belongs to hardly any other. Upon it depend in no small degree those naval resources which constitute the main defense of the realm. I believe it is

*Mr. C. S. A. Abbott, of the Foreign Office, was attached to the commission and in attendance at its meetings.

the fact that at the present moment by far the greater proportion of the existing iron-clad navy of Great Britain has been constructed in the yards of private ship-builders. These private yards have been created and are maintained at no expense to the nation by the custom of foreign states. Most of the powers of Europe rely for their naval construction on the private yards of English ship-builders. In this respect, therefore, apart from the commercial question, the nature of this trade involves public consequences of the utmost political importance. The monopoly of the construction of the iron-clad navies of the world has become a new and gigantic arm of our maritime superiority. England has become, and is daily still more becoming, the naval dock-yard of Europe. One effect of discouraging this trade must be either that foreign powers will construct for themselves, or else that some other nation, whose restrictions are less rigid and whose trade is more free, shall construct for them. Either alternative will deprive Great Britain of a great and special national advantage which she now enjoys, owing to her manufacturing skill and her peculiar resources in coal and iron. If England should unhappily be engaged in a European war, we should lose the incalculable benefit of the control we now possess over the naval reserves of Europe. All these reservoirs of naval construction which the demands of foreign governments at present support in this country can now, in case of need, be diverted from the foreign supply and be made immediately available for our own defense. If this trade is discouraged and possibly destroyed, the consequences are obvious. Foreign governments must build for themselves the vessels we now build for them. They will, therefore, be independent of this country in a manner which they now are not. Or they will build elsewhere, and the country to which they resort will then acquire the advantage we shall lose. This will be the first result. But the indirect effect on our own resources will be equally serious. At present, in time of peace, we are able to limit ourselves to comparatively moderate, though still enormously expensive, public establishments, because we know that in time of war the private yards will supplement our resources to an almost unlimited extent. But if this private trade should cease or be seriously diminished, we must keep up constantly in time of peace such establishments as will be adequate to our utmost wants in time of war. The whole reserve of constructing power which we now possess in the private yards must be supplied by the public establishments. And consequently all that expenditure in plant, machinery, and the maintenance of skilled workmen, which is now defrayed by the custom of the foreigner in the private yards, must in future be permanently sustained out of the public taxation. Few people conversant with the subject will dispute that if the yards which now manufacture iron-clads for the world were abolished, the navy estimates must be largely increased in order to establish and keep on foot equal means of construction in the public dock-yards. We have a dozen private yards in the country which could in a limited time turn out vessels as powerful as any in the English navy, and which have in fact constructed many of the best ships we possess. Relying on this reserve of producing power we are able to economize our resources and to diminish our stock. But if these establishments cease, we must always be prepared to supply their place at a far greater cost to the country. It is also deserving of consideration that the competition of these private yards among one another and with the government dock-yards keeps up probably a higher standard of excellence than could be obtained by mere official supervision.

It will, therefore, be seen that the question is by no means one of the interest of private ship-builders, but does in fact involve a great question of national resource and public economy.

It is worthy of remark that when, in the year 1817, the Congress of the United States were called upon to alter and amend their foreign enlistment act, the bill as reported by the Committee on Foreign Affairs in the House of Representatives bore the following title:

"A bill to prevent citizens of the United States from selling vessels of war to the citizens or subjects of any foreign power, and more effectually to prevent the arming and equipping vessels of war in the ports of the United States intended to be used against nations in amity with the United States."

By the first section, "if any citizen of the United States * * * shall fit out and arm * * * any private ship or vessel of war, to sell the said vessel or contract for the sale of said vessel, to be delivered in the United States or elsewhere to the purchaser, with intent * * * to cruise or commit hostilities upon the subjects * * * of any prince or state with whom the United States are at peace, such person shall be punished" with fine and imprisonment, &c.

This bill was much discussed in the Senate, and in the end the first section above quoted was struck out and the title of the statute altered accordingly. (These facts are stated on authority of a letter of Mr. Bemis of Boston, published in 1866.) The legislature of the United States have thus, it will be seen, deliberately declined to interfere with the commerce of that country in vessels of war. It may be worthy of consideration, having regard to these facts, whether the result of the proposed interference with the ship-building trade of England may not be to transfer to America the whole of the custom of foreign states.

But it will be argued that if the equipping, arming, and dispatching of such vessels is to be prohibited, it is necessary, on the principle *obtus principis*, to extend the prohibition to the earlier stages of the transaction. That reasoning does not carry conviction to my mind; the arming, equipping, and dispatching are conspicuous acts directly and obviously connected with the belligerent intent. To build is nothing unless the vessel be armed and dispatched; it is in these acts that the real breach of neutrality consists. The law should lay its hand on the immediate offense, and not be astute to search out its remote sources and springs. To attempt to do so involves consequences which will be politically difficult and dangerous.

The great advantage of the summary and extensive preventive powers which the present report recommends should be conferred on the executive to stay the dispatch of vessels which may compromise our neutrality, is that they supply a reason which might justify us in mitigating the strictness of the penal code rather than an argument for augmenting its rigor. The notorious indisposition of juries to enforce such penalties creates a mischief which should be avoided. We may sustain the great inconvenience of making laws which we shall find it practically impossible to execute, because they exceed in severity the standard of public opinion. The present report recommends the creation of an absolute, and I conceive a sufficient, power to stop all vessels which ought to be stopped. The case of the Birkenhead rams, stopped by Earl Russell, is an instance of the exercise of the sort of power which it is the object of these recommendations to make more effectual and easy. As soon as reasonable grounds of suspicion arise, the power will be put in force. But assuming the vessel to be stopped, if there remains behind a statute which makes the original building penal, how are we to justify not proceeding to prosecute the builders after the vessel is stopped? If such a prosecution is not instituted, the law is brought into contempt; if it is instituted, the law will probably break down—results in either case to be greatly deprecated. When juries are called upon to inflict on their own countrymen, on behalf of foreigners, severe penalties for acts which are not punished but are held lawful in all other countries, is it not more than probable that popular sentiment will correct the severity of the law?

It must be remembered that in adding the word "building" to the penal part of the act we are distinctly creating a *new crime*. We are making our own subjects liable to criminal penalties for acts which are clearly lawful by the law of nations, which are lawful by the law and practice of all nations, and which have hitherto been lawful by the law and practice of our own people. We shall have not only to enact a new crime which does not exist, but to create an opinion and conscience of criminality which it is more difficult to inspire.

The authors of the English foreign enlistment act distinctly declined to carry back the offense to a period of the transaction which in no way partook of an offensive character and had no obvious or necessary connection with an attitude of war. The American government equally, after mature consideration, refused to adopt the alteration now proposed. They did so upon principles of policy, by departing from which we may involve ourselves in inextricable difficulties, and probably not command on the part of other nations any corresponding reciprocity. It may be urged that while it is proposed to confer these extended powers, a large discretion is left to the government to determine how far they shall be put in operation. But as a fact, this discretion will be more nominal than real, and with the view of precluding international complaints it will be absolutely null. Whatever power is conferred in effect creates an obligation on the part of the government to put it in force, and a responsibility on the part of the nation if any neglect to enforce it should occur. If the government are authorized to interfere by prosecution and seizure at all stages of the building, then, at the first suggestion of any belligerent power, they will be compelled, almost without discretion, to interfere, because should they decline to do so their responsibility and that of the nation will be involved, even by an error of judgment, in a case where the obligation is admitted. Thus we shall be made liable for acts for which at present no nation would hold us responsible. The reason why it has been considered inexpedient and impossible to enforce a prohibition of the exportation of munitions of war from the neutral territory is because to do so would involve a system of repression and *espionage* on the part of the neutral government which would be wholly intolerable to the trade of its subjects. If the thing is forbidden it is the duty of the neutral government to see that the prohibition is in fact enforced. But in order to enforce it we must establish on every occasion of war in foreign countries a sort of belligerent excise in the bosom of our own people. And this is precisely the evil in which we shall involve ourselves by undertaking to prohibit "building" with an unlawful intent. If we create and assume this duty we are bound to execute it, and in order to execute it we must ascertain at our own peril the intent and the future destination of every keel laid in the United Kingdom and even in our most distant possessions. If this is done honestly and efficiently it will place the whole ship-building trade under a supervision of a most odious and oppressive description, which would hardly be endured even for the

security of our own interests, and certainly will not be tolerated for the advantage of foreign states.

There are those who reconcile themselves to such a course by supposing that in fact this new crime would never practically be prosecuted in its early stage. If so, then to what purpose is it created? But in fact if it is made a crime the neutral government must proceed against it in its earliest inception at the risk of being held responsible for what may happen in its further progress. There is an immense difference in this respect between the offense of arming and fitting out, which, especially in modern warfare, is a fact sufficiently obvious and patent, and may be easily detected in time to prevent the dispatch of the vessel. But if all building with a certain intent is to be constituted a crime which it is part of the duty of the government to repress, then there is not a keel laid, a bolt driven, or plank sawn in any yard in the country which may not at every instant be exposing the nation to a responsibility hitherto unknown.

The objections which forcibly strike me are these:

(1.) We shall create a new duty which it will be difficult and probably impossible to execute.

(2.) In creating such a duty we shall incur a new responsibility by its non-execution.

(3.) The attempt to execute it will be odious to our own subjects, and the failure to execute it will be a just ground of complaint to foreign states.

(4.) We shall be placing the trade of our own country at an uncalled-for disadvantage as compared with that of the rest of the world:

Either the creation of this new offense will or will not tend to embarrass and injure the ship-building trade of the country. If it will not, as some believe, it would be satisfactory that this should be clearly established. I confess, if I were satisfied of this, my objections to the course proposed would be in a great measure removed. But if, as I believe, the necessity of a perpetual official supervision and interference would greatly hamper, and probably ultimately destroy, this branch of our commerce, that again is a point on which I think the nation has a right to expect that we should afford them the means of forming a sound judgment. It may be that for adequate objects we should be willing to sacrifice such a trade. But it is well that we should estimate the amount of the sacrifice, being as it is wholly gratuitous and without example in the case of other nations. I regret that the commission have not taken evidence to show how far the proposed prohibition would in fact affect this particular trade and the general naval resources of the country. I venture to think that before any legislation on this matter is attempted such an inquiry should be instituted. If the preventive powers of detention recommended in the report are (as I believe) sufficient for all practical purposes and the performance of all legitimate duties, every argument of policy would dissuade us from carrying the law any further.

I entirely share the desire to make abundant provision that the duties of neutrality should be honestly, fully, and effectually carried out. But in creating new duties, which do not at present exist, either in principle, precedent, or practice, it is worth while to consider whether, by exaggerating the obligations of neutrality, we are not creating a discouragement to its practice. We may end by making the duties of neutrality so irksome and intolerable, that on a mere calculation of expediency a prudent government would prefer to go to war. And thus we may defeat the end we have in view by the means we adopt to attain it.

There is one condition of things for which it seems especially necessary to make provision. A contract may be made by a foreign government for the building in this country of an iron-clad in time of peace and without any contemplation of present war. Such vessels require many months for completion, and their cost is enormous. The foreign government may have paid several hundred thousand pounds by installments during the construction of the vessel, and the property in the incomplete vessel will have passed to the foreign government. What is to be done to such a vessel in case the contracting government is involved subsequently in war? Is the vessel to be forfeited and the builder to be prosecuted because he proceeds with a contract which was perfectly lawful when it was made? If so, what chance is there for the future that any foreign government will ever build in England, or indeed that any English builder will venture to undertake their contracts? This singular state of things might easily arise. The recent war between Austria and Prussia lasted less than two months; a vessel might have been contracted for by one of those governments with an English ship-builder; the vessel might have been half finished before the war, and wholly completed after the war. In respect of the work done before the war and after the war, *i. e.*, for the beginning and ending of the ship, the ship-builder would be innocent; but in respect of the work done during the few weeks of the war, *i. e.*, for the middle of the ship, he would be guilty of a misdemeanor and subject to fine and imprisonment. This may seem an extreme illustration, but it shows the necessity of providing some protection for contracts *bond fide* made and commenced in time of peace, unless it is intended wholly to prohibit the trade.

There is one other matter which I should gladly have seen embodied in the recommendations of the report. A strong feeling has recently grown up against the recognition

of belligerent commissions granted to vessels on the high seas, by which such vessels become at once raised to the position of lawful belligerent cruisers, though they start from no belligerent port, and, in fact, derive no support from the natural and legitimate naval resources of those on whose behalf they wage war. It seems to me that for all reasons it is wise to discourage such a practice. As there is no rule of international law which forbids such delivering of commissions on the high seas, we cannot of course refuse to recognize the title of such a cruiser to all the legitimate rights of war in places beyond our jurisdiction. But we are masters of our own actions and our own hospitality within the realm. Though, therefore, we cannot dispute the validity of such a commission on the high seas, or the legality of captures made by such a vessel, we may refuse to admit into our ports any vessel which has not received its commission in a port of its own country. By so doing we should be acting strictly within the principles of the law of nations, and our example would very probably be followed by other maritime states, and thus in the end tend to repress the practice altogether. For this purpose I should have been very glad if the commission had thought fit to recommend that in time of war no armed vessel engaged in hostilities should be admitted into any of our ports which should not hold a commission delivered to it in some port of military or naval equipment actually in the occupation of the government by which she is commissioned.

W. V. HARCOURT.

APPENDIX No. I.

BRITISH FOREIGN ENLISTMENT ACT.

(59 George III, Cap. 69, July 3, 1819.)

CAP. LXIX.—An act to prevent the enlisting or engagement of his Majesty's subjects to serve in foreign service, and the fitting out or equipping, in his Majesty's dominions, vessels for warlike purposes, without his Majesty's license.

Whereas the enlistment or engagement of his Majesty's subjects to serve in war in foreign service without his Majesty's license, and the fitting out and equipping and arming of vessels by his Majesty's subjects without his Majesty's license, for warlike operations in or against the dominions or territories of any foreign prince, state, potentate, or persons exercising or assuming to exercise the powers of government in or over any foreign country, colony, province, or part of any province, or against the ships, goods, or merchandise of any foreign prince, state, potentate, or persons as aforesaid, or their subjects, may be prejudicial to and tend to endanger the peace and welfare of this kingdom; and whereas the laws in force are not sufficiently effectual for preventing the same: Be it therefore enacted by the King's most excellent Majesty, by and with the advice and consent of the lords, spiritual and temporal, and commons, in this present Parliament assembled, and by the authority of the same, that from and after the passing of this act, an act passed in the ninth year of the reign of his late Majesty King George the Second, intituled "An act to prevent the listing of his Majesty's subjects to serve as soldiers without his Majesty's license;" and also an act passed in the twenty-ninth year of the reign of his said late Majesty King George the Second, intituled "An act to prevent his Majesty's subjects from serving as officers under the French King, and for better enforcing an act passed in the ninth year of his present Majesty's reign to prevent the enlisting his Majesty's subjects to serve as soldiers without his Majesty's license; and for obliging such of his Majesty's subjects as shall accept commissions in the Scotch brigade in the service of the States-general of the United Provinces to take the oaths of allegiance and abjuration," and also an act passed in Ireland in the eleventh year of the reign of his said late Majesty King George the Second, intituled "An act for the more effectual preventing the enlisting of his Majesty's subjects to serve as soldiers in foreign service without his Majesty's license;" and also an act passed in Ireland in the nineteenth year of the reign of his said late Majesty King George the Second, intituled "An act for the more effectual preventing his Majesty's subjects from entering into foreign service, and for publishing an act of the seventh year of King William the Third, intituled 'An act to prevent foreign education,'" and all and every the clauses and provisions in the said several acts contained, shall be and the same are hereby repealed.

II. And be it further declared and enacted, that if any natural-born subject of his Majesty, his heirs and successors, without the leave or license of his Majesty, his heirs or successors, for that purpose first had and obtained under the sign-manual of his Majesty, his heirs or successors, or signified by order in council, or by proclamation of his Majesty, his heirs or successors, shall take or accept, or shall agree to take or accept, any military commission, or shall otherwise enter into the military service as a commissioned or non-commissioned officer, or shall enlist or enter himself to enlist, or shall agree to enlist or to enter himself to serve as a soldier, or to be employed or shall serve

in any warlike or military operation in the service of or for or under or in aid of any foreign prince, state, potentate, colony, province, or part of any province or people, or of any person or persons exercising or assuming to exercise the powers of government in or over any foreign country, colony, province, or part of any province or people, either as an officer or soldier, or in any other military capacity; or if any natural-born subject of his Majesty shall, without such leave or license as aforesaid, accept, or agree to take or accept, any commission, warrant, or appointment as an officer, or shall enlist or enter himself, or shall agree to enlist or enter himself to serve as a sailor or marine, or to be employed or engaged, or shall serve in and on board any ship or vessel of war, or in and on board any ship or vessel used or fitted out, or equipped, or intended to be used for any warlike purpose, in the service of or for or under or in aid of any foreign power, prince, state, potentate, colony, province, or part of any province or people, or of any person or persons exercising or assuming to exercise the powers of government in or over any foreign country, colony, province, or part of any province or people; or if any natural-born subject of his Majesty shall, without such leave and license as aforesaid, engage, contract, or agree to go, or shall go to any foreign state, country, colony, province, or part of any province, or to any place beyond the seas, with an intent or in order to enlist or enter himself to serve or with intent to serve in any warlike or military operation whatever, whether by land or by sea, in the service of or for or under or in aid of any foreign prince, state, potentate, colony, province, or part of any province or people, or in the service of or for or under or in aid of any person or persons exercising or assuming to exercise the powers of government in or over any foreign country, colony, province, or part of any province or people, either as an officer or a soldier, or in any other military capacity, or as an officer or sailor, or marine, in any such ship or vessel as aforesaid, although no enlisting money or pay or reward shall have been or shall be in any or either of the cases aforesaid actually paid to or received by him, or by any person to or for his use or benefit; or if any person whatever, within the United Kingdom of Great Britain and Ireland, or in any part of his Majesty's dominions elsewhere, or in any country, colony, settlement, island, or place belonging to or subject to his Majesty, shall hire, retain, engage, or procure or shall attempt or endeavor to hire, retain, engage, or procure any person or persons whatever to enlist, or to enter or engage to enlist, or to serve or to be employed in any such service or employment as aforesaid, as an officer, soldier, sailor, or marine, either in land or sea service, for or under and in aid of any foreign prince, state, potentate, colony, province, or part of any province or people, or for or under or in aid of any person or persons exercising or assuming to exercise any powers of government as aforesaid, or to go or to agree to go or embark from any part of his Majesty's dominions, for the purpose or with intent to be so enlisted, entered, engaged, or employed as aforesaid, whether any enlisting money, pay, or reward shall have been or shall be actually given or received or not; in any or either of such cases every person so offending shall be deemed guilty of a misdemeanor, and upon being convicted thereof, upon any information or indictment, shall be punishable by fine and imprisonment, or either of them, at the discretion of the court before which such offender shall be convicted.

III. Provided always, and be enacted, that nothing in this act contained shall extend or be construed to extend to render any person or persons liable to any punishment or penalty under this act, who at any time before the first day of August, 1819, within any part of the United Kingdom, or of the islands of Jersey, Guernsey, Alderney, or Sark, or at any time before the first day of November, 1819, in any part or place out of the United Kingdom, or of the said islands, shall have taken or accepted, or agreed to take or accept any military commission, or shall have otherwise enlisted into any military service as a commissioned or non-commissioned officer, or shall have enlisted, or entered himself to enlist, or shall have agreed to enlist or to enter himself to serve as a soldier, or shall have served, or having so served, shall, after the said first day of August, 1819, continue to serve in any warlike or military operation, either as an officer or soldier, or in any other military capacity, or shall have accepted, or agreed to take or accept any commission, warrant, or appointment as an officer, or shall have enlisted or entered himself to serve, or shall have served, or having so served, shall continue to serve as a sailor or marine, or shall have been employed or engaged, or shall have served, or having so served, shall, after the said first day of August, continue to serve in and on board of any ship or vessel of war, used or fitted out, or equipped or intended for any warlike purpose; or shall have engaged, or contracted, or agreed to go, or shall have gone to, or having so gone to, shall, after the said first day of August, continue in any foreign state, country, colony, province, or part of a province, or to or in any place beyond the seas, unless such person or persons shall embark at or proceed from some port or place within the United Kingdom, or the islands of Jersey, Guernsey, Alderney, or Sark, with intent to serve as an officer, soldier, sailor, or marine, contrary to the provisions of this act, after the said first day of August, or shall embark or proceed from some port or place out of the United Kingdom, or the islands of Jersey, Guernsey, Alderney, or Sark, with such intent as aforesaid, after the said first day of November, or who shall, before the passing of this act, and within the said United Kingdom, or the said islands, on or before the first day of November, 1819, in any port or place out of the said United Kingdom, or the

said islands, have hired, retained, engaged, or procured, or attempted or endeavored to hire, retain, engage, or procure any person or persons whatever to enlist or to enter, or to engage to enlist or to serve, or be employed in any such service or employment as aforesaid as an officer, soldier, sailor, or marine, either in land or sea service, or to go, or agree to go or embark for the purpose or with the intent to be so enlisted, entered, or engaged, or employed contrary to the prohibitions respectively in this act contained, anything in this act contained to the contrary in anywise notwithstanding; but that all and every such person and persons shall be in such state and condition, and no other, and shall be liable to such fines, penalties, forfeitures, and disabilities, and none other, as such person or persons was or were liable and subject to before the passing of this act, and as such person or persons would have been in, and been liable and subject to, in case this act and the said recited acts by this act repealed had not been passed or made.

IV. And be it further enacted, that it shall and may be lawful for any justice of the peace residing at or near to any port or place within the United Kingdom of Great Britain and Ireland, where any offense made punishable by this act as a misdemeanor shall be committed, on information on oath of any such offense, to issue his warrant for the apprehension of the offender, and to cause him to be brought before such justice, or any justice of the peace; and it shall be lawful for the justice of the peace before whom such offender shall be brought, to examine into the nature of the offense upon oath, and to commit such person to jail, there to remain until delivered by due course of law, unless such offender shall give bail, to the satisfaction of the said justice, to appear and answer to any information or indictment to be preferred against him, according to law, for the said offense; and that all such offenses which shall be committed within that part of the United Kingdom called England, shall and may be proceeded and tried in his Majesty's Court of King's Bench at Westminster, and the venue in such case laid at Westminster, or at the assizes or session of oyer and terminer and jail delivery, or at any quarter or general sessions of the peace in and for the county or place where such offense was committed; and that all such offenses which shall be committed within that part of the United Kingdom called Ireland shall and may be prosecuted in his Majesty's Court of King's Bench at Dublin, and the venue be laid at Dublin, or at any assizes or session of oyer and terminer and jail delivery, or at any quarter or general sessions of the peace in and for the county or place where such offense was committed; and all such offenses as shall be committed in Scotland shall and may be prosecuted in the court of judicature in Scotland, or any other court competent to try criminal offenses committed within the county, shire, or stewartry within which such offense was committed; and where any offense made punishable by this act as a misdemeanor shall be committed out of the said United Kingdom, it shall be lawful for any justice of the peace residing near to the port or place where such offense shall be committed, on information on oath of any such offense, to issue his warrant for the apprehension of the offender, and to cause him to be brought before such justice, or any other justice of the peace for such place; and it shall be lawful for the justice of the peace before whom such offender shall be brought, to examine into the nature of the offense upon oath, and to commit such person to jail, there to remain till delivered by due course of law, or otherwise to hold such offender to bail to answer for such offense in the superior court, competent to try and having jurisdiction to try criminal offenses committed in such port or place; and all such offenses committed at any place out of the said United Kingdom shall and may be prosecuted and tried in any superior court of his Majesty's dominions competent to try and having jurisdiction to try criminal offenses committed at the place where such offense shall be committed.

V. And be it further enacted, that in case any ship or vessel, in any port or place within his Majesty's dominions, shall have on board any such person or persons who shall have been enlisted or entered to serve, or shall have engaged, or agreed, or been procured to enlist, or enter, or serve, or who shall be departing from his Majesty's dominions for the purpose and with the intent of enlisting or entering to serve, or to be employed, or of serving or being engaged or employed in the service of any foreign prince, state, or potentate, colony, province, or part of any province or people, or of any person or persons exercising or assuming to exercise the powers of government in or over any foreign colony, province, or part of any province or people, either as an officer, soldier, sailor, or marine, contrary to the provisions of this act, it shall be lawful for any of the principal officers of his Majesty's customs where any such officer of the customs shall be, and in any part of his Majesty's dominions in which there are no officers of his Majesty's customs, for any governor, or persons having the chief civil command, upon information on oath given before them, respectively, which oath they are hereby respectively authorized and empowered to administer, that such person or persons as aforesaid is or are on board such ship or vessel, to detain and prevent any such ship or vessel, or to cause such ship or vessel to be detained and prevented from proceeding to sea on her voyage with such persons as aforesaid on board: Provided, nevertheless, that no principal officer, governor, or person shall act as aforesaid upon such information upon oath as aforesaid unless the party so informing shall not only have deposed

in such information that the person or persons on board such ship or vessel hath or have been enlisted or entered to serve, or hath or have engaged, or agreed, or been procured to enlist, or enter, or serve, or is or are departing as aforesaid for the purpose and with the intent of enlisting, or entering to serve, or to be employed, or of serving, or being engaged or employed in such service as aforesaid, but shall also have set forth in such information, upon oath, the facts or circumstances upon which he forms his knowledge or belief, enabling him to give such information upon oath; and that all and every person and persons convicted of willfully false swearing in any such information upon oath, shall be deemed guilty of and suffer the penalties on persons convicted of willful and corrupt perjury.

VI. And be it further enacted, that if any master, or other person having or taking the charge or command of any ship or vessel, in any part of the United Kingdom of Great Britain and Ireland, or in any part of his Majesty's dominions beyond the seas, shall knowingly and willingly take on board, or if such master or other person having the command of any such ship or vessel, or any owner or owners of any such ship or vessel, shall knowingly engage to take on board any person or persons who shall have been enlisted or entered to serve, or shall have engaged, or agreed, or been procured to enlist, or enter, or serve, or who shall be departing from his Majesty's dominions for the purpose and with the intent of enlisting or entering to serve, or to be employed, or of serving, or being engaged or employed in any naval or military service, contrary to the provisions of this act, such master, or owner, or other person as aforesaid shall forfeit and pay the sum of fifty pounds for each and every such person so taken or engaged to be taken on board; and, moreover, every such ship or vessel so having on board, conveying, carrying, or transporting any such person or persons, shall and may be seized and detained by the collector, comptroller, surveyor, or other officer of the customs, until such penalty or penalties shall be satisfied and paid, or until such master or person, or the owner or owners of such ship or vessel, shall give good and sufficient bail, by recognizance before one of his Majesty's justices of the peace, for the payment of such penalty or penalties.

VII. And be it further enacted, that if any person, within any part of the United Kingdom, or in any part of his Majesty's dominions beyond the seas, shall, without the leave and license of his Majesty for that purpose first had and obtained as aforesaid, equip, furnish, fit out, or arm, or attempt or endeavor to equip, furnish, fit out, or arm, or procure to be equipped, furnished, fitted out, or armed, or shall knowingly aid, assist, or be concerned in the equipping, furnishing, fitting out, or arming of any ship or vessel with intent or in order that such ship or vessel shall be employed in the service of any foreign prince, state, or potentate, or of any foreign colony, province, or part of any province or people, or of any person or persons exercising or assuming to exercise any powers of government in or over any foreign state, colony, province, or part of any province or people, as a transport or store ship, or with intent to cruise or commit hostilities against any prince, state, or potentate, or against the subjects or citizens of any prince, state, or potentate, or against the persons exercising or assuming to exercise the powers of government in any colony, province, or part of any province or country, or against the inhabitants of any foreign colony, province, or part of any province or country, with whom his Majesty shall not then be at war; or shall, within the United Kingdom, or any of his Majesty's dominions, or in any settlement, colony, territory, island, or place belonging or subject to his Majesty, issue or deliver any commission for any ship or vessel, to the intent that such ship or vessel shall be employed as aforesaid, every such person so offending shall be deemed guilty of a misdemeanor, and shall, upon conviction thereof, upon any information or indictment, be punished by fine and imprisonment, or either of them, at the discretion of the court in which such offender shall be convicted; and every such ship or vessel, with the tackle, apparel, and furniture, together with all the materials, arms, ammunition, and stores which may belong to or be on board of any such ship or vessel, shall be forfeited; and it shall be lawful for any officer of his Majesty's customs or excise, or any officer of his Majesty's navy, who is by law empowered to make seizures for any forfeiture incurred under any of the laws of customs or excise, or the laws of trade and navigation, to seize such ships and vessels as aforesaid, and in such places and in such manner in which the officers of his Majesty's customs or excise and the officers of his Majesty's navy are empowered respectively to make seizures under the laws of customs and excise, or under the laws of trade and navigation; and that every such ship and vessel, with the tackle, apparel, and furniture, together with all the materials, arms, ammunition, and stores which may belong to or be on board of such ship or vessel, may be prosecuted and condemned in the like manner and in such courts as ships or vessels may be prosecuted and condemned, for any breach of the laws made for the protection of the revenues of customs and excise, or of the laws of trade and navigation.

VIII. And be it further enacted, that if any person in any part of the United Kingdom of Great Britain and Ireland, or in any part of his Majesty's dominions beyond the seas, without the leave and license of his Majesty for that purpose first had and obtained as aforesaid, shall, by adding to the number of the guns of such vessel, or by changing

those on board for other guns, or by the addition of any equipment for war, increased or augment, or procure to be increased or augmented, or shall be knowingly concerned in increasing or augmenting the warlike force of any ship or vessel of war, or cruiser, or other armed vessel which, at the time of her arrival in any part of the United Kingdom or any of his Majesty's dominions, was a ship of war, cruiser, or armed vessel in the service of any foreign prince, state, or potentate, or of any person or persons exercising or assuming to exercise any powers of government in or over any colony, province, or part of any province or people belonging to the subjects of any such prince, state, or potentate, or to the inhabitants of any colony, province, or part of any province or country under the control of any person or persons so exercising or assuming to exercise the powers of government, every such person so offending shall be deemed guilty of a misdemeanor, and shall, upon being convicted thereof, upon any information or indictment, be punished by fine and imprisonment, or either of them, at the discretion of the court before which such offender shall be convicted.

IX. And be it further enacted, that offenses made punishable by the provisions of this act, committed out of the United Kingdom, may be prosecuted and tried in his Majesty's Court of King's Bench at Westminster, and the venue in such case laid at Westminster, in the county of Middlesex.

X. And be it further enacted, that any penalty or forfeiture inflicted by this act may be prosecuted, sued for, and recovered, by action of debt, bill, plaint, or information, in any of his Majesty's courts of record at Westminster or Dublin, or in the Court of Exchequer, or in the Court of Session in Scotland, in the name of his Majesty's attorney general for England or Ireland, or his Majesty's advocate for Scotland, respectively, or in the name of any person or persons whatsoever; wherein no essoin, protection, privilege, wager of law, nor more than one imparlance shall be allowed; and in every action or suit the person against whom judgment shall be given for any penalty or forfeiture under this act shall pay double costs of suit; and every such action or suit shall and may be brought at any time within twelve months after the offense committed, and not afterwards; and one moiety of every penalty to be recovered by virtue of this act shall go and be applied to his Majesty, his heirs or successors, and the other moiety to the use of such person or persons as shall first sue for the same, after deducting the charges of prosecution from the whole.

XI. And be it further enacted, that if any action or suit shall be commenced, either in Great Britain or elsewhere, against any person or persons for anything done in pursuance of this act, all rules and regulations, privileges and protections, as to maintaining or defending any suit or action, and pleading therein, or any costs thereon, in relation to any acts, matters, or things done, or that may be done by any officer of customs or excise, or by any officer of his Majesty's navy under any act of Parliament in force on or immediately before the passing of this act, for the protection of the revenues of customs and excise, or prevention of smuggling, shall apply and be in full force in any such action or suit as shall be brought for anything done in pursuance of this act, in as full and ample a manner to all intents and purposes as if the same privileges and protections were repeated and re-enacted in this act.

XII. Provided always, and be it further enacted, that nothing in this act contained shall extend, or be construed to extend, to subject to any penalty any person who shall enter into the military service of any prince, state, or potentate in Asia, with leave or license, signified in the usual manner, from the governor-general in council, or vice-president in council, of Fort William in Bengal, or in conformity with any orders or regulations issued or sanctioned by such governor-general or vice-president in council.

APPENDIX NO. II.

UNITED STATES FOREIGN ENLISTMENT ACT.

(Fifteenth Congress, Sess. 1, ch. 8, April 20, 1818.)

CHAP. LXXXVIII.—An act in addition to the "Act for the punishment of certain crimes against the United States," and to repeal the acts therein mentioned.*

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That if any citizen of the United States shall, within the territory or jurisdiction thereof, accept and exercise a commission to serve a foreign prince, state, colony, district, or people, in war, by land or by sea, against any prince, state, colony, district, or people, with whom the United States are at peace, the person so offending

* "An act for the punishment of certain crimes against the United States," April 30, 1790, ch. 9. Act of March 3, 1817, ch. 58.

shall be deemed guilty of a high misdemeanor, and shall be fined not more than two thousand dollars, and shall be imprisoned not exceeding three years.

SEC. 2. *And be it further enacted*, That if any person shall, within the territory or jurisdiction of the United States, enlist or enter himself, or hire or retain another person to enlist or enter himself, or to go beyond the limits or jurisdiction of the United States with intent to be enlisted or entered in the service of any foreign prince, state, colony, district, or people, as a soldier, or as a marine or seaman, on board of any vessel of war, letter of marque, or privateer, every person so offending shall be deemed guilty of a high misdemeanor, and shall be fined not exceeding one thousand dollars, and be imprisoned not exceeding three years: *Provided*, That this act shall not be construed to extend to any subject or citizen of any foreign prince, state, colony, district, or people, who shall transiently be within the United States, and shall on board of any vessel of war, letter of marque, or privateer, which at the time of its arrival within the United States, was fitted and equipped as such, enter and enlist himself, or hire or retain another subject or citizen of the same foreign prince, state, colony, district, or people, who is transiently within the United States, to enlist or enter himself to serve such foreign prince, state, colony, district, or people, on board such vessel of war, letter of marque, or privateer, if the United States shall then be at peace with such foreign prince, state, colony, district, or people.

SEC. 3. *And be it further enacted*, That if any person shall, within the limits of the United States, fit out and arm, or attempt to fit out and arm, or procure to be fitted out and armed, or shall knowingly be concerned in the furnishing, fitting out, or arming of any ship or vessel with intent that such ship or vessel shall be employed in the service of any foreign prince or state, or of any colony, district or people, to cruise or commit hostilities against the subjects, citizens, or property of any foreign prince or state, or of any colony, district, or people with whom the United States are at peace, or shall lease or deliver a commission within the territory or jurisdiction of the United States, for any ship or vessel, to the intent that she may be employed as aforesaid, every person so offending shall be guilty of a high misdemeanor, and shall be fined not more than ten thousand dollars, and imprisoned not more than three years; and every such ship or vessel, with her tackle, apparel, and furniture, together with all materials, arms, ammunition, and stores, which may have been procured for the building and equipment thereof, shall be forfeited; one-half to the use of the informer, and the other half to the use of the United States.

SEC. 4. *And be it further enacted*, That if any citizen or citizens of the United States shall, without the limits thereof, fit out and arm, or attempt to fit out and arm, or procure to be fitted out and armed, or shall knowingly aid or be concerned in the furnishing, fitting out, or arming, any private ship or vessel of war, or privateer, with intent that such ship or vessel shall be employed to cruise, or commit hostilities, upon the citizens of the United States, or their property, or shall take the command of, or enter on board of any such ship or vessel, for the intent aforesaid, or shall purchase any interest in any such ship or vessel, with a view to share in the profits thereof, such persons so offending shall be deemed guilty of a high misdemeanor, and fined not more than ten thousand dollars, and imprisoned not more than ten years; and the trial for such offense, if committed within the limits of the United States, shall be in the district in which the offender shall be apprehended or first brought.

SEC. 5. *And be it further enacted*, That if any persons shall, within the territory or jurisdiction of the United States, increase or augment, or procure to be increased or augmented, or shall knowingly be concerned in increasing or augmenting, the force of any ship of war, cruiser, or other armed vessel, which, at the time of her arrival within the United States, was a ship of war, or cruiser, or armed vessel, in the service of any foreign prince or state, or of any colony, district, or people, or belonging to the subjects or citizens of any such prince or state, colony, district, or people, the same being at war with any foreign prince or state, or of any colony, district, or people with whom the United States are at peace, by adding to the number of the guns of such vessel, or by changing those on board of her for guns of a larger caliber, or by the addition thereto of any equipment solely applicable to war, every person so offending shall be deemed guilty of a high misdemeanor, shall be fined not more than one thousand dollars, and be imprisoned not more than one year.

SEC. 6. *And be it further enacted*, That if any person shall, within the territory or jurisdiction of the United States, begin or set on foot, or provide or prepare the means for any military expedition or enterprise, to be carried on from thence against the territory or dominions of any foreign prince or state, or of any colony, district, or people, with whom the United States are at peace, every person so offending shall be deemed guilty of a high misdemeanor, and shall be fined not exceeding three thousand dollars, and be imprisoned not more than one year.

SEC. 7. *And be it further enacted*, That the district courts shall take cognizance of complaints, by whomsoever instituted, in cases of captures made within the waters of the United States, or within a marine league of the coasts or shores thereof.

SEC. 8. *And be it further enacted*, That in every case in which a vessel shall be fitted

out and armed, or attempted to be fitted out and armed, or in which the force of any vessel of war, cruiser, or other armed vessel, shall be increased or augmented, or in which any military expedition or enterprise shall be begun or set on foot, contrary to the provisions and prohibitions of this act; and in every case of the capture of a ship or vessel within the jurisdiction or protection of the United States as before defined, and in every case in which any process issuing out of any court of the United States shall be disobeyed or resisted by any person or persons having the custody of any vessel of war, cruiser, or other armed vessel of any foreign prince or state, or of any colony, district, or people, or of any subjects or citizens of any foreign prince or state, or of any colony, district, or people, in every case it shall be lawful for the President of the United States, or such other person as he shall have empowered for that purpose, to employ such part of the land or naval forces of the United States, or of the militia thereof, for the purpose of taking possession of and detaining any such ship or vessel, with her prize or prizes, if any, in order to the execution of the prohibitions and penalties of this act, and to the restoring the prize or prizes in the cases in which restoration shall have been adjudged, and also for the purpose of preventing the carrying on any such expedition or enterprise from the territories or jurisdiction of the United States against the territories or dominions of any foreign prince or state, or of any colony, district, or people, with whom the United States are at peace.

SEC. 9. *And be it further enacted*, That it shall be lawful for the President of the United States, or such person as he shall empower for that purpose, to employ such part of the land or naval forces of the United States, or of the militia thereof, as shall be necessary to compel any foreign ship or vessel to depart the United States in all cases in which, by the law of nations or the treaties of the United States, they ought not to remain within the United States.

SEC. 10. *And be it further enacted*, That the owners or consignees of every armed ship or vessel sailing out of the ports of the United States, belonging wholly or in part to citizens thereof, shall enter into bond to the United States, with sufficient sureties, prior to clearing out the same, in double the amount of the value of the vessel and cargo on board, including her armament, that the said ship or vessel shall not be employed by such owners to cruise or commit hostilities against the subjects, citizens, or property of any foreign prince or state, or of any colony, district, or people, with whom the United States are at peace.

SEC. 11. *And be it further enacted*, That the collectors of the customs be, and they are hereby, respectively authorized and required to detain any vessel manifestly built for warlike purposes, and about to depart the United States, of which the cargo shall principally consist of arms and munitions of war, when the number of men shipped on board, or other circumstances, shall render it probable that such vessel is intended to be employed by the owner or owners to cruise or commit hostilities upon the subjects, citizens, or property of any foreign state, or of any colony, district, or people, with whom the United States are at peace, until the decision of the President be had thereon, or until the owner or owners shall give such bond and security as is required of the owners of armed ships by the preceding section of this act.

SEC. 12. *And be it further enacted*, That the act passed on the fifth day of June, one thousand seven hundred and ninety-four, entitled "An act in addition to the act for the punishment of certain crimes against the United States," continued in force, for a limited time, by the act of the second of March, one thousand seven hundred and ninety-seven, and perpetuated by the act passed on the twenty-fourth of April, one thousand eight hundred, and the act passed on the fourteenth day of June, one thousand seven hundred and ninety-seven, entitled "An act to prevent citizens of the United States from privateering against nations in amity with, or against the citizens of, the United States," and the act passed the third day of March, one thousand eight hundred and seventeen, entitled "An act more effectually to preserve the neutral relations of the United States," be, and the same are hereby, severally repealed: *Provided, nevertheless*, That persons having heretofore offended against any of the acts aforesaid may be prosecuted, convicted, and punished as if the same were not repealed; and no forfeiture heretofore incurred by a violation of any of the acts aforesaid shall be affected by such repeal.

SEC. 13. *And be it further enacted*, That nothing in the foregoing act shall be construed to prevent the prosecution or punishment of treason, or any piracy defined by the laws of the United States.

APPENDIX No. III.

MEMORANDUM BY MR. ABBOTT.

THE FOREIGN ENLISTMENT ACT.

(39 Geo. III, c. 69, July 3, 1819.)

The foreign enlistment acts of Great Britain and the United States, the circumstances under which they were passed, as well as the principles of neutrality involved in them, are so similar that a consideration of the British must necessarily be prefaced by an account of the history of the American act.*

THE UNITED STATES FOREIGN ENLISTMENT ACT.

When, after the execution of Louis the XVth, the French national convention declared war, on the first of February, 1793, against England and Holland, one of their first acts was to appoint a representative to proceed to the United States to solicit the support of the sister republic, and to reclaim the privileges to which they considered France to be entitled under the two treaties of the 6th of February, 1778.†

The first of those treaties was a treaty of friendship and commerce, and contained the following articles:

[Translation.]

"ARTICLE XVII. It shall be lawful for the ships of war of either party, and privateers, freely to carry whithersoever they please the ships and goods taken from their enemies, without being obliged to pay any duty to the officers of the admiralty or any other judges; nor shall such prizes be arrested or seized when they come to and enter the ports of either party; nor shall the searchers or other officers of those places search the same, or make examination concerning the lawfulness of such prizes; but they may hoist sail at any time, and depart and carry their prizes to the places expressed in their commissions, which the commanders of such ships of war shall be obliged to show; on the contrary, no shelter or refuge shall be given in their ports to such as shall have made prize of the subjects, people, or property of either of the parties; but if such shall come in, being forced by stress of weather or the danger of the sea, all proper means shall be rigorously used, that they go out and retire from thence as soon as possible.

"ARTICLE XXII. It shall not be lawful for any foreign privateers, not belonging to subjects of the Most Christian King, nor citizens of the said United States who have commissions from any other prince or state in enmity with either nation, to fit their ships in the ports of either the one or the other of the aforesaid parties, to sell what they have taken, or in any other manner whatsoever to exchange their ships, merchandises, or any other lading; neither shall they be allowed even to purchase victuals, except such as shall be necessary for their going to the next port of that prince or state from which they have commissions."

The other treaty, styled "Traité d'Alliance Eventuelle et Défensive," provided (Article XI) for the mutual guarantee of the French and United States possessions in North America.

[Translation.]

"The whole as their possessions shall be fixed and assured to the said states at the moment of the cessation of their present war with England;" and, (Article 12,) "In order to fix more precisely the sense and application of the preceding article, the contracting parties declare, that in case of a rupture between France and England, the reciprocal guarantee declared in the said article shall have its full force and effect the moment such war shall break out; and if such rupture shall not take place, the mutual obligations of the said guarantee shall not commence until the moment of the cessation of the present war, between the United States and England, shall have ascertained their possessions."

The national convention assumed that under these stipulations they might claim the exclusive right to arm and commission privateers within American ports, to bring into them their prizes, to cause the prizes thus brought in to be condemned by French consuls and sold, and even to capture enemy's vessels within the limits of the maritime jurisdiction of the United States. At least such were the pretensions of their envoy, Monsieur, or as he styled himself, Citizen Genet, a Girondist of the most exaggerated type, whose avowed object was to excite the people of the United States to a war with Great Britain.

* Fifteenth Congress, sess. 1, chap. 8, April 20, 1818.

† Signed by Benjamin Franklin.

Tucker's "History of the United States," ed. 1854, vol. 1, pages 504 to 517.

his cabinet to consider:

1. Whether a proclamation of neutrality should be issued.
2. Whether a minister should be received from the party then in power in France.
3. Whether the United States were bound by the guarantee in the treaty of 1778.

The cabinet differed on the second and third points, but were unanimous in favor of the issue of a proclamation.

On referring to the history of the United States for this period, it will be seen that the President was placed in a position which made it very difficult for him to carry out the policy of neutrality which he had decided upon.

The sympathies of the people of the United States were warmly

Tucker's "His- engaged on behalf of France. The hostility against England gener- istry of the United ated during the war of independence was kept alive and fostered by States." Guisot. the excesses committed by the frontier Indians, who, it was alleged, Washington.

were encouraged by the British authorities; disputes had been raised as to the interpretation of the treaty of 1783; American seamen were pressed for the British navy; the English government was said to exercise the right of search at sea, and to interfere with American merchant vessels in an arbitrary and unfriendly manner. Besides the difficulties arising from these and other similar complaints against the British government, which rendered any measure which might be supposed to be favorable to England in the highest degree unpopular, the cabinet of the President was divided into factions headed respectively by Thomas Jefferson, Secretary for Foreign Affairs, and Alexander Hamilton, Secretary of the Treasury. The former, who had served from 1782 to 1789 as minister at Paris, was at the head of the party who advocated the rights of separate government in the several States. He was a republican of extreme views, and favored the French cause. The latter, the leader of the federal or centralization party, was inclined toward the constitutional system of England, with which country he consequently in some degree sympathized.

It is necessary to take some notice of these obstacles to the President's policy of neutrality as explaining the subsequent proceedings of the United States government. The nation at large and two of the cabinet, Jefferson and the Attorney General, Edmund Randolph, were for affording assistance to France in the first instance, and even for engaging eventually in the war. Washington, with Hamilton and Henry Knox, the Secretary for War, advocated a strict neutrality, and were supported in their views by the federalist party. Washington's strength of character overcame the opposition of the French party, and he succeeded in commencing and maintaining that policy of non-intervention in European affairs which has since been consistently followed by his country up to the present time.

The proclamation of neutrality was issued on the 22d of April, 1793,

American State and was as follows:

Papers, vol. 1, p. 140.

"Whereas it appears that a state of war exists between Austria, Prussia, Sardinia, Great Britain, and the United Netherlands on the one part, and France on the other part; and the duty and interest of the United States require that they should with sincerity and good faith adopt and pursue a conduct friendly and impartial toward the belligerent powers:

"I have therefore thought fit, by these presents, to declare the disposition of the United States to observe the conduct aforesaid toward those powers respectively, and to exhort and warn the citizens of the United States carefully to avoid all acts and proceedings whatsoever which may in any manner tend to contravene such disposition.

"And I do hereby also make known, that whosoever of the citizens of the United States shall render himself liable to punishment or forfeiture under the law of nations, by committing, aiding, or abetting hostilities against any of the said powers, or by carrying to any of them those articles which are deemed contraband by the modern usage of nations, will not receive the protection of the United States against such punishment or forfeiture; and further, that I have given instructions to those officers to whom it belongs to cause prosecutions to be instituted against all persons who shall, within the cognizance of the courts of the United States, violate the law of nations with respect to the powers at war, or any of them.

"(Signed)

"WASHINGTON.

"PHILADELPHIA, April 22, 1793.

"By the President:

"(Signed)

"TH. JEFFERSON."

In the mean while, M. Genet had sailed from France provided with blank commissions, or letters of marque, for distribution in the ports of the United States. He

arrived at Charleston on the 8th of April; but the intelligence of his landing was not received by the United States government at Philadelphia until the day on which the proclamation was issued. He at once organized a system of privateering, and within a week commissioned four vessels, the Republican, the Sans Culotte, the Anti-George, and the Citizen Genet. He also authorized the French consuls in the United States to hold courts of vice-admiralty on any vessels their cruisers might capture, to condemn them and sell the prizes. Instead of proceeding by sea to Philadelphia, M. Genet made a triumphant progress by land, haranguing the people, instituting "bonnet rouge" clubs, and endeavoring to excite the citizens of the towns through which he passed to afford active aid to the French republic in spite of the President's declaration of neutrality.

Mr. Hammond lost no time in remonstrating against these proceedings, and on the 8th of May addressed the following note to Mr. Jefferson:

"The undersigned, her Britannic Majesty's minister plenipotentiary to the United States of America, has the honor of informing the Secretary of State that he has received intelligence from his Majesty's consul at Charleston, South Carolina, that two privateers have been fitted out from that port under French commissions. They carry six small guns, and are navigated by forty or fifty men, who are for the most part citizens of the United States. One of these privateers left the harbor of Charleston on the 18th ultimo, and the other was, on the 22d ultimo, ready to depart.

"The undersigned does not deem it necessary to enter into any reasoning upon these facts, as he conceives them to be breaches of that neutrality which the United States profess to observe, and direct contraventions of the proclamation which the President issued upon the 22d of last month. Under this impression he doubts not that the executive government of the United States will pursue such measures as to its wisdom may appear the best calculated for repressing such practices in future, and for restoring to their rightful owners any captures which these particular privateers may attempt to bring into any of the ports of the United States."

Mr. Hammond, at the same time, forwarded to Mr. Jefferson three other notes, complaining respectively of the illegal prize court established by the French consul at Charleston, of the intended shipment of arms and munitions of war for France from American ports, and of the seizure of the British bark Grange by the French frigate Abondance in the Delaware River.

In acknowledging the receipt of these communications, Mr. Jefferson observed, with reference to the export of arms, that "American citizens have always been free to make, vend, and export arms; it is the constant occupation and livelihood of some of them; to suppress their callings, the only means perhaps of their subsistence, because a war exists in foreign and distant countries in which we have no concern, would scarcely be expected; it would be hard in principle and impossible in practice; the law of nations, therefore, respecting the rights of those at peace does not require from them such an internal derangement of their occupations; it is satisfied with the external penalty pronounced by the President's proclamation, that of confiscation of such portion of those arms as shall fall into the hands of any of the belligerent powers on the way to the ports of their enemies; to this penalty American citizens are warned that they will be abandoned, and that even private contraventions may work no inequality between the parties at war; the benefit of them will be left equally free and open to all."

"Mr. Jefferson also declared that the United States government 'condemned in the highest degree the conduct of any of its citizens who might personally engage in committing hostilities at sea against any of the nations who were parties to the war, and that it would exert all the means with which the laws and constitution armed them to discover such as offended therein, and would bring them to condign punishment,' and that 'the practice of commissioning, equipping, and manning vessels in American ports to cruise on any of the belligerent parties was equally and entirely disapproved, and that the government would take effectual measures to prevent a repetition of it.'" He likewise promised that the government would take measures for the liberation of the crew of the Grange, and restitution of the vessel and cargo, and occurred with Mr. Hammond that the establishment of a French prize court at Charleston was "not warranted by the usage of nations nor by the stipulations existing between the United States and France."

Mr. Hammond's note requesting the restoration of the prizes was reserved for further consideration.

M. Genet reached Philadelphia on the 16th of May, 1793. The previous day a note had been addressed to his predecessor, M. Ternant, by Mr. Jefferson, recounting the claims of violations of neutrality preferred by the British minister, Mr. George Hammond, and calling his attention to the seizure of the English bark Grange by the French frigate Abondance in the Delaware River.

Mr. Jefferson to Mr. Morris, United States minister at Paris, Aug. 16, 1793.

American State Papers, vol. 1, p. 167.

Tucker, vol. 1, page 539.

M.S. inclosure in Mr. Hammond's dispatch to Lord Grenville, May 17, 1793.

Mr. Jefferson to Mr. Hammond, May 15, 1793.

Jefferson's Works, vol. iii, p. 557.

American State Papers, vol. 1, p. 147.

Attached to this note is a report of Attorney General Randolph on the general question of maritime jurisdiction. M. Genet restored the vessel. The correspondence continued until the 5th of June, when the final decision of the United States government was conveyed to M. Genet and Mr. Hammond in the following official notes:

Jefferson's
works, vol. iii, p.
571.

Mr. Jefferson to Mr. Genet.

"PHILADELPHIA, June 5, 1793.

"SIR: In my letter of May the 15th to Mr. Ternant, your predecessor, after stating the answer which had been given to the several memorials of the British minister of May the 8th, it was observed that a part still remained unanswered of that which respected the fitting out of armed vessels in Charleston to cruise against nations with whom we were at peace.

"In a conversation which I had afterwards the honor of holding with you, I observed that one of these armed vessels, the Citizen Genet, had come into this port with a prize; that the President had thereupon taken the case into further consideration, and after mature consultation and deliberation was of opinion that the arming and equipping vessels in the ports of the United States to cruise against nations with whom they are at peace was incompatible with the territorial sovereignty of the United States; that it made them instrumental to the annoyance of those nations, and thereby tended to compromise their peace; and that he thought it necessary, as an evidence of good faith to them, as well as a proper reparation to the sovereignty of the country, that the armed vessels of this description should depart from the ports of the United States.

"The letter of the 27th ultimo, with which you have honored me, has been laid before the President, and that part of it which contains your observations on this subject has been particularly attended to. The respect due to whatever comes from your friendship for the French nation and justice to all have induced him to re-examine the subject, and particularly to give your representations thereon the consideration they deservedly claim. After fully weighing again, however, all the principles and circumstances of the case, the result appears still to be that it is the right of every nation to prohibit acts of sovereignty from being exercised by any other within its limits; and the duty of a neutral to prohibit such as would injure one of the warring powers, that the granting military commissions within the United States by any other authority than their own is an infringement on their sovereignty, and particularly so when granted to their own citizens to lead them to act contrary to the duties they owe to their own country; that the departure of vessels thus illegally equipped from the ports of the United States will be but an acknowledgment of respect analogous to the breach of it, while it is necessary on their part, as an evidence of their faithful neutrality. On these considerations, sir, the President thinks that the United States owe it to themselves, and to the nations in their friendship, to expect this act of reparation on the part of vessels marked in their very equipment with offense to the laws of the land, of which the law of nations makes an integral part.

"The expressions of friendly sentiment which we have already had the satisfaction of receiving from you leave no room to doubt that, the conclusion of the President being thus made known to you, these vessels will be permitted to give no further umbrage by their presence in the ports of the United States.

"I have, &c.,

"T. JEFFERSON."

Mr. Jefferson to Mr. Hammond.

"PHILADELPHIA, June 5, 1793.

"SIR: In the letter which I had the honor of writing you on the 15th of May, in answer to your several memorials of the 8th of that month, I mentioned that the President reserved for further consideration a part of the one which related to the equipment of two privateers in the port of Charleston. The part alluded to was that wherein you express your confidence that the executive government of the United States would pursue measures for repressing such practices in future, and for restoring to their rightful owners any captures which such privateers might bring into the ports of the United States.

"The President, after a full investigation of this subject and the most mature consideration, has charged me to communicate to you that the first part of this application is found to be just, and that effectual measures are taken for preventing repetitions of the act therein complained of; but that the latter part, desiring restitution of the prizes, is understood to be inconsistent with the rules which govern such cases, and would, therefore, be unjustifiable toward the other party.

"The principal agents in this transaction were French citizens. Being within the United States at the moment a war broke out between their own and another country,

they determined to go into its defense; they purchase, arm, and equip a vessel with their own money, man it themselves, receive a regular commission from their nation, depart out of the United States, and then commence hostilities by capturing a vessel. If, under these circumstances, the commission of the captors was valid, the property according to the laws of war was by the capture transferred to them, and it would be an aggression on their nation for the United States to rescue it from them, whether on the high seas or on coming into their ports. If the commission was not valid, and consequently the property not transferred by the laws of war to the captors, then the case would have been cognizable in our courts of admiralty, and the owners might have gone thither for redress. So that on neither supposition would the Executive be justifiable in interposing.

"With respect to the United States, the transaction can in no wise be imputed to them. It was in the first moment of the war, in one of their most distant ports, before measures could be provided by the government to meet all the cases which such a state of things was to produce, impossible to have been known, and therefore impossible to have been prevented by that government.

"The moment it was known the most energetic orders were sent to every State and port in the Union to prevent a repetition of the accident. On a suggestion that citizens of the United States had taken part in the act, one who was designated was instantly committed to prison for prosecution; one or two others have been since named and committed in like manner; and should it appear that there were still others, no measures will be spared to bring them to justice. The President has even gone further. He has required, as a reparation of their breach of respect to the United States, that the vessels so armed and equipped shall depart from our ports.

"You will see, sir, in these proceedings of the President, unequivocal proofs of the line of strict right which he means to pursue. The measures now mentioned are taken in justice to the one party; the ulterior measure of seizing and restoring the prizes is declined in justice to the other, and the evil thus early arrested will be of very limited effect; perhaps, indeed, soon disappear altogether.

"I have, &c.,

"TH. JEFFERSON."

Shortly afterwards a case occurred in which M. Genet openly defied Tucker, vol. 1, the authority of the government. An English letter of marque, the *Little Sarah*, had been captured by a French frigate and sent into Philadelphia, where she was fitted out as a privateer under the name of the *Little Democrat*. M. Genet was applied to to stop this vessel from sailing, but he refused to interfere, and said that force would be repelled by force. A detachment of one hundred and twenty militia were sent to guard the vessel, but on M. Genet entering into an implied engagement that the vessel should not leave the river, they were withdrawn. The American State President then determined to submit to the judges a series of questions *Papers*, vol. 1, p. upon the points at issue between the government and M. Genet, and 163. requested the latter to detain the *Little Democrat*, the ships *Jane* and *William*, in the Delaware, the *Citoyen Genet*, and her two prizes, the *Lovely Lass* and *Mr. Jefferson* to Prince William Henry, and the brig *Fannie*, in the Chesapeake, until M. Genet, July 12, the opinion of the judges could be ascertained. The *Little Democrat* 1793. sailed four or five days after this, while the judges declined to answer the queries put by the Executive as out of the sphere of their judicial duties, which were limited to cases of legal controversy. The cabinet accordingly decided to lay down certain rules to be observed toward belligerents in the ports of the United States. These rules were carefully framed in accordance with the received doctrines of international law, slightly modified by the treaty between the United States and France, and were communicated to the collectors of customs with the following circular:

INSTRUCTIONS TO THE COLLECTORS OF CUSTOMS.

"PHILADELPHIA, August 4, 1793.

"SIR: It appearing that repeated contraventions of our neutrality laws have taken place in the ports of the United States without having been discovered in time for prevention or remedy, I have it in command from the President to address to the collectors of the respective districts a particular instruction on the subject. Mr. Hamilton to the collectors of customs; Aug. 4, 1793.

"It is expected that the officers of customs in each district will, in the course of their official functions, have a vigilant eye upon whatever may be passing within the ports, harbors, creeks, inlets, and waters of such district of a nature to contravene the laws of neutrality, and upon discovery of anything of the kind will give immediate notice to the governor of the State, and to the attorney of the judicial district comprehending the district of the customs within which any such contravention may happen. American State Papers, vol. 1, p. 141.

"To assist the judgment of the officers on this head, I transmit herewith a schedule of rules concerning sundry particulars which have been adopted by the President, as deductions from the laws of neutrality established and received among nations. Whatever shall be contrary to these rules will, of course, be to be notified as above mentioned.

"There are some points which, pursuant to our treaties, and the determination of the Executive, I ought to notice to you.

"If any vessel of the powers at war with France should *bring or send* within your district a prize made of the subjects, people, or property of France, it is immediately to be notified to the governor of the State, in order that measures may be taken, pursuant to the 17th article of the treaty with France, to oblige such vessel and her prize, or such prize when sent in without the capturing vessel, to depart.

"No privateer of any of the powers at war with France, coming within a district of the United States, can, by the 22d article of our treaty with France, enjoy any other privilege than that of *purchasing such victuals as shall be necessary for her going to the next port of the prince or state from which she has her commission*. If she should do anything besides this, it is immediately to be reported to the governor and the attorney of the district. You will observe by the rules transmitted, that the term privateer is understood not to extend to vessels armed, for merchandise and war, commonly called with us *letters of marque*, nor, of course, to vessels of war in the immediate service of the government of either of the powers at war.

"No armed vessel which has been or shall be *originally fitted out* in any port of the United States, by either of the parties at war, is henceforth to have asylum in any district of the United States. If any such armed vessel shall appear within your district she is immediately to be notified to the governor and to the attorney of the district, which is also to be done in respect to any prize that such armed vessel shall bring or send in. At foot is a list of such armed vessels of the above description as have hitherto come to the knowledge of the Executive.

"The purchasing within and exporting from the United States, *by way of merchandise*, articles commonly called contraband, being generally warlike instruments and military stores, is free to all the parties at war, and is not to be interfered with. If our own citizens undertake to carry them to any of the parties, they will be abandoned to the penalties which the laws of war authorize.

"You will be particularly careful to observe, and to notify as directed in other instances, the case of any citizen of the United States who shall be found in the service of either of the parties at war.

"In case any vessel shall be found in the act of contravening any of the rules or principles which are the ground of this instruction, she is to be refused a clearance until she shall have complied with what the governor shall have decided in reference to her. Care, however, is to be taken in this, not unnecessarily or unreasonably to embarrass trade or to vex any of the parties concerned.

"In order that *contraventions* may be the better ascertained, it is desired that the officer who shall first go on board any vessel arriving within your district shall make an accurate survey of her then condition as to *military equipment*, to be forthwith reported to you; and that prior to her clearance a like survey be made, that any transgression of the rules laid down may be ascertained.

"But, as the propriety of any such inspection of a *vessel of war in the immediate survey of the government* of a foreign nation is not without question in reference to the usage of nations, no attempt is to be made to inspect any such vessel till further orders on the point.

"The President desires me to signify to you his most particular expectation that the instructions contained in this letter will be executed with the greatest vigilance, care, activity, and impartiality. Omissions will tend to expose the government to serious imputations and suspicions, and proportionably to commit the good faith and peace of the country, objects of too much importance not to engage every proper exertion of your zeal.

"With consideration, I am, sir, &c.,

"ALEXANDER HAMILTON."

"1. The original arming and equipping of vessels in the ports of the United States by any of the belligerent parties for military service, offensive or defensive, is deemed unlawful.

"2. Equipments of merchant vessels by either of the belligerent parties in the ports of the United States, purely for the accommodation of them as such, is deemed lawful.

"3. Equipments in the ports of the United States of vessels of war in the immediate service of the government of any of the belligerent parties, which, if done to other vessels, would be of a doubtful nature, as being applicable either to commerce or war, are deemed lawful; except those which shall have made prize of the subjects, people, or property of France, coming with their prizes into the ports of the United States, pursuant to the 17th article of our treaty of amity and commerce with France.

"4. Equipments in the ports of the United States, by any of the parties at war with France, of vessels fitted for merchandise and war, whether with or without commissions, which are doubtful in their nature, as being applicable either to commerce or war, are deemed lawful, except those which shall have made prize, &c.

"5. Equipments of any of the vessels of France, in the ports of the United States, which are doubtful in their nature as being applicable to commerce or war, are deemed lawful.

"6. Equipments of every kind, in the ports of the United States, of privateers of the powers at war with France, are deemed unlawful.

"7. Equipments of vessels in the ports of the United States, which are of a nature solely adapted to war, are deemed unlawful; except those stranded or wrecked, as mentioned in the 18th article of our treaty with France, the 16th of our treaty with the United Netherlands, the 18th of our treaty with Prussia.

"8. Vessels of either of the parties not armed, or armed previous to their coming into the ports of the United States, which shall not have infringed any of the foregoing rules, may lawfully engage or enlist their own subjects or citizens, not being inhabitants of the United States, except privateers of the powers at war with France, and except those vessels which have made prizes, &c."

On the 7th of August Mr. Jefferson wrote to M. Genet, stating that the American State the President had decided that compensation or restitution should be Papers, vol. 1, page made in the case of vessels brought into United States ports as prizes 167.

by privateers fitted out in such ports since the 5th of June, and consequently called on him to restore these prizes, as otherwise the government of France would be considered liable for the repayment of the compensation paid to the persons aggrieved. Mr. Jefferson adds, "that besides taking efficacious measures to prevent the future fitting out of privateers in the ports of the United States, they will not give asylum therein to any which shall have been at any time so fitted out, and will cause restitution of all such prizes as shall be hereafter brought within their ports by any of the said privateers."

Mr. Hammond was also informed of this decision of the President:

Mr. Jefferson to Mr. Hammond.

"PHILADELPHIA, August 7, 1793.

"SIR: A constant expectation of carrying into full effect the declaration of the President against permitting the armament of vessels within the ports of the United States to cruise on nations with which they are at peace, has hitherto prevented me giving you a final answer on the subject of such vessels and their prizes. Measures to this effect are still taking, and particularly for excluding from all further asylum in our ports the vessels so armed, and for the restoration of the prizes the *Lively*, *Loes*, the *Prince William Henry*, and the *Jane of Dublin*, taken by them; and I am authorized in the mean time to assure you that should the measures for restoration fail in their effect, the President considers it as incumbent upon the United States to make compensation for the vessels.

"I have, &c.,

"T. JEFFERSON."

The affair of the *Little Democrat*, in which the government was thus "insulted and set at defiance by M. Genet," determined them on asking for his recall; and the United States minister at Paris was accordingly instructed, on the 16th of August, to represent to the French government that if M. Genet persevered in his proceedings the United States government would "be forced even to suspend his functions before a successor could arrive to continue them."

M. Genet seems to have tried to test the neutrality of the United States government on every point. He maintained the right of the French government not only to issue commissions and to equip vessels, but also openly to man their privateers in American ports. Two seamen, named *Henfield* and *Singletary*, were arrested on board the *Citizen Genet* at Philadelphia for having enlisted in the French service. M. Genet remonstrated in his usual bombastic style, demanding their immediate release. This was refused, and *Henfield* brought to trial. The jury, however, acquitted him on the plea of his having been ignorant of having committed an offense in taking service in a French privateer. M. Genet also engaged in an intrigue for the seizure of New Orleans by some malcontents in Kentucky. In short, he managed, during the few months he remained the representative of France, to damage the interests of his country in every conceivable way; while the temperate remonstrances of the English minister afforded a contrast to these exaggerated pretensions, and served to confirm the President in his policy of neutrality and to influence the cabinet in favor of England.

MS. Inclosure in Mr. Hammond's dispatch to Lord Grenville, Aug. 10, 1793.

Mr. Jefferson to Mr. Morris, United States minister at Paris, August 16, 1793. American State Papers, vol. 1, page 167.

M. Genet to Mr. Jefferson; June 1, 1793.

American State Papers, vol. 1, page 151.

Tucker, vol. 1, pages 517 and 518.

MS. inclosure in Mr. Hammond's dispatch to Lord Grenville, of the 17th of September, 1793.

Certain prizes having been brought in by vessels fitted out after the 5th of June, as well as those brought in by vessels fitted out before that date, of which restitution had already been refused, Mr. Hammond wrote, on the 30th of August, to Mr. Jefferson requesting to be informed of the precise intentions of the government respecting the restoration of prizes.

Mr. Hammond says: "I understand that all captures made subsequently to the 5th of June, and antecedently to the 7th of August, by any vessel fitted out, armed, and equipped in the ports of the United States, are either to be restored to the captors, or a compensation for their full value is to be paid to their owners by the government of the United States, and that all prizes made by vessels of this description subsequently to the 7th of August are to be seized and immediately restored by the government of the United States; or if the restitution cannot be effected, a compensation for their full value is to be paid in the same manner as in the former case."

Mr. Jefferson replied, on the 5th of September:

"PHILADELPHIA, September 5, 1793.

"SIR: I am honored with yours of August 30. Mine of the 7th of that month assured you that measures were taken for excluding from all further asylum in our ports vessels armed in them to cruise on nations with which we are at peace, and for the restoration of the prizes the *Lovely Lass*, *Prince William Henry*, and the *Jane of Dublin*, and that should the measures for restitution fail in their effect, the President considered it as incumbent on the United States to make compensation for the vessels.

"We are bound by our treaties with three of the belligerent nations, by all the means in our power, to protect and defend their vessels and effects in our ports or waters, or on the seas near our shores, and to recover and restore the same to the right owners when taken from them. If all the means in our power are used, and fail in their effect, we are not bound by our treaties with those nations to make compensation.

"Though we have no similar treaty with Great Britain, it was the opinion of the President that we should use toward that nation the same rule which, under this article, was to govern us with the other nations, and even to extend it to captures made on the high seas and brought into our ports, if done by vessels which had been armed within them.

"Having, for particular reasons, forbore to use all the means in our power for the restitution of the three vessels mentioned in my letter of August 7, the President thought it incumbent on the United States to make compensation for them; and though nothing was said in that letter of other vessels taken under like circumstances and brought in after the 5th of June, and before the date of that letter, yet, when the same forbearance had taken place, it was and is his opinion that compensation would be equally due.

"As to prizes made under the same circumstances and brought in after the date of that letter, the President determined that all the means in our power should be used for their restitution. If these fail, as we should not be bound by our treaties to make compensation to the other powers in the analogous case, he did not mean to give an opinion that it ought to be done to Great Britain. But still, if any cases shall arise subsequent to that date, the circumstances of which shall place them on similar ground with those before it, the President would think compensation equally incumbent on the United States.

"Instructions are given to the governors of the different States to use all the means in their power for restoring prizes of this last description found within their ports. Though they will, of course, take measures to be informed of them, and the general government has given them the aid of the custom-house officers for this purpose, yet you will be sensible of the importance of multiplying the channels of their information as far as shall depend on yourself or any person under your direction, in order that the governors may use the means in their power for making restitution. Without knowledge of the capture, they cannot restore it. It will always be best to give the notice to them directly; but any information which you shall be pleased to send to me also, at any time, shall be forwarded to them as quickly as distance will permit.

"Hence you will perceive, sir, that the President contemplates restitution or compensation in the cases before the 7th of August; and after that date, restitution, if it can be effected by any means in our power; and that it will be important that you should substantiate the fact that such prizes are in our ports or waters.

"Your list of the privateers illicitly armed in our ports is, I believe, correct.

"With respect to losses by detention, waste, spoliation, sustained by vessels taken as before mentioned, between the dates of the 5th June and the 7th August, it is proposed as a provisional measure that the collector of the customs of the district, and the British consul, or any other person you please, shall appoint persons to establish the value of the vessel and cargo at the time of her capture and of her arrival in the port into which she is brought, according to their value in that port.

"If this shall be agreeable to you, and you will be pleased to signify it to me, with the names of the prizes understood to be of this description, instructions will be given accordingly to the collectors of the customs where the respective vessels are.

"I have, &c.,

"TH. JEFFERSON."

This letter was appended to the treaty of the 19th of November, 1794.

The particular reasons referred to were the unwillingness of the United States government to oppose the sailing of the French privateers by force. Hertalett's State Paper, vol. 1, p. 801.

The result of the publication of the rules of the 4th August was that the system of privateering was, generally speaking, suppressed, though cases seem to have occurred until the arrival of M. Genet's successor in February, 1794, who disavowed his acts, and recalled the commissions he had granted to privateers. Mr. Jefferson to Mr. Morris; August 18, 1793. American State Papers, vol. 1, p. 167.

It must be remembered that the United States did not possess any navy at this time, the construction of a naval force not being carried out until 1794; so that even if the the government wished to stop a privateer, they could only do so by employing the militia to board her, unless she happened to be lying under the guns of a fort.

In October, M. Duplaine, the French vice-consul at Boston, having rescued by force a suspected vessel which had been seized by the marshal, the United States government withdrew his exequatur.

Congress met on the 3d December, and in his address the President spoke of the measures adopted for the preservation of neutrality, and the necessity for legislation on the subject, in the following terms:

"As soon as the war in Europe had embraced those powers with whom the United States have the most extensive relations, there was reason to apprehend that our intercourse with them might be interrupted, and our disposition for peace drawn into question by the suspicions too often entertained by belligerent nations." * * * "In this posture of affairs, both new and delicate, I resolved to adopt general rules which should conform to the treaties and assert the privileges of the United States." * * * "Although I have not thought myself at liberty to forbid the sale of prizes permitted by our treaty of commerce with France to be brought into our ports, I have not refused to cause them to be restored when they were taken within the protection of our territory or by vessels commissioned or equipped in warlike form within the limits of the United States. It rests with the wisdom of Congress to correct, improve, or enforce this plan of procedure, and it will probably be found expedient to extend the legal code and the jurisdiction of the courts of the United States to many cases which, though dependent on principles already recognized, demand some further provisions." American State Papers, vol. 1, p. 21.

"Where individuals shall, within the United States, array themselves in hostility against any of the powers at war, or enter upon military expeditions or enterprises within the jurisdiction of the United States, or usurp and exercise judicial authority within the United States, or where the penalties on violations of the law of nations may have been indistinctly marked or are inadequate, these offenses cannot receive too early and close an attention, and require prompt and decisive remedies." * * * "In like manner, as several of the courts have doubted, under particular circumstances, their power to liberate the vessels of a nation at peace, and even of a citizen of the United States, although seized under a false color of being hostile property, and have denied their power to liberate certain captures within the protection of our territory, it would seem proper to regulate their jurisdiction in these points."

Soon after the opening of the session Jefferson retired from the cabinet into private life, and did not take any active part in politics for the next three years. Washington was thus left free to carry out his policy and to establish relations with England on a more friendly footing. Tucker, vol. 1, page 523.

The early part of the session was occupied with discussions on the imposition of a protective duty on trade with nations not having commercial treaties with the United States. This measure was aimed at British trade, and was a consequence of the ill feeling that had been occasioned by the British orders in council of June and November, 1793, authorizing the seizure of United States merchant ships laden with corn for France, or found attempting to break the blockade.

The next measure introduced was for the construction of a navy, and was intended as a provision against the contingency of a war with England, although nominally adopted as a defense for American commerce against the Algerine pirates.

On the 27th of March, Mr. Dayton, of New Jersey, offered a resolution for sequestering all debts due to British subjects, as a fund to indemnify citizens of the United States for the unlawful depredations of British cruisers.

Before any vote was taken, Mr. Clarke, of New Jersey, proposed that all intercourse with Great Britain should be prohibited until satisfaction was obtained.

While these subjects were pending, the President, on the 4th of April, American State Papers, vol. 1, page 431. communicated to Congress a dispatch from Mr. Pinckney, the United States minister in London, forwarding a copy of an order in council of the 8th of January, modifying the instructions to cruisers contained in the previous orders.

This caused the popular feeling to incline in favor of England, and Tucker, vol. 1, page 544. the republican or anti-federal party abandoned their scheme of commercial retaliation, and assented to a proposition made by the federalists that a special mission should be sent to England to settle the various questions in dispute.

Vie de Wash- Mr. Jay, Chief Justice of the Supreme Court, a descendant of one of ington, par De Witt. the families which took refuge in England at the time of the revocation of the edict of Nantes, a federalist, and friend of the English cause, was selected for the post of envoy.*

He was nominated on the 16th of April, but did not arrive in London until the 15th of June.

The inadequacy of the existing law to deal with even the grossest breach of the neutrality proclamation had been shown a short time previously by the grand jury of Philadelphia having refused to find a true bill against the French vice-consul, Duplaine, (the vice-consul whose exequatur had been withdrawn in October, 1793,) for the forcible rescue of the Greyhound.

It was apparent that no time must be lost in amending the law on this subject, and in accordance with the recommendation in the President's message a bill was now introduced for the purpose.

Tucker, vol. 1, page 546. The bill was vigorously opposed by the republicans, and "would have been defeated in the Senate, if repeated motions made with that view had not been lost by the vote of the Vice-President.

"The republican party had a majority in the Senate of one member, but the seat of Mr. Galatin, from Pennsylvania, one of that majority, having been contested and set aside on the ground that he had not been a citizen so long as the Constitution required, the two parties were exactly balanced."

This act, which forms the basis of the United States neutrality laws, United States Statutes at Large; third Congress, sess. 1, ch. 50, contains ten clauses, and is entitled "An act in addition to the act for the punishment of certain crimes against the United States." (The act thus referred to is the act of April 30, 1790, providing for the punishment of high treason and other offenses against the state or individual.) As this act is substantially the same as the act of 1818, and as in referring to that act attention will be called to the points in which they differ, it will be sufficient to give here a short abstract of the different articles:

SECTION 1. Any citizen of the United States, within the jurisdiction of the same, accepting or exercising a commission to serve a foreign prince or state by sea or land, liable to a fine of \$2,000 or imprisonment for not more than three years.

SEC. 2. Any person within the jurisdiction of the United States entering himself or enlisting others, or hiring or retaining another person to enlist for the service of the army or navy of any foreign prince or state, liable to a fine of \$1,000 or three years' imprisonment. This not to apply to foreigners transiently within the United States. Any person so enlisted giving information within thirty days to be indemnified from punishment.

SEC. 3. Any person within any of the ports, harbors, bays, rivers, or other waters of the United States, fitting out and arming, or attempting to fit out and arm, or procuring to be fitted out and armed, or attempting to, &c., or knowingly concerned in the furnishing, &c., of any ship or vessel, with intent that such ship or vessel shall be employed in the service of any foreign state, to cruise or commit hostilities against the subjects, citizens, or property of another state with which the United States shall be at peace, or commissioning any such vessel, to be liable to a fine of \$5,000 or three years' imprisonment, and the vessel, tackle, &c., to be forfeited, one-half to the informer and the other half to the United States.

SEC. 4. Any person augmenting or procuring to be augmented the force of any ship of war in the service of a state at war with a state with which the United States are at peace, by adding to the number or size of the guns of such vessel, or by the addition thereto of any equipment solely applicable to war, to be liable to a fine of \$1,000 or imprisonment for one year.

SEC. 5. Any person within the jurisdiction of the United States setting on foot or preparing any military enterprise against any state with which the United States are at peace, to be liable to a fine of \$3,000 or one year's imprisonment.

* See the correspondence respecting Mr. Jay's mission, American State Papers, vol. 1, pages 470 to 525. (There is an interesting report on the law of prize, furnished to Mr. Jay by Sir Walter Scott and Dr. Nicholl, which deserves attention, page 494.)

SEC. 6. District courts to have cognizance of captures made within the waters or within a marine league of the coasts or shores of the United States.

SEC. 7. The militia or land or naval forces to be employed for enforcing this act, for detaining any vessel contravening it and her prizes, and for restoring such prizes when restoration may be adjudged, and for preventing illegal military expeditions.

SEC. 8. The militia, &c., to be employed as shall be necessary to compel any foreign ship or vessel to depart the United States in all cases in which, by the laws of nations or the treaties of the United States, they ought not to remain within the United States.

SEC. 9. Prosecution of treason or piracy not to be impaired.

SEC. 10. The act to continue in force for two years, and thence to the end of the next session of Congress."

This act afforded an answer to M. Genet's pretensions and to Mr. Hammond's complaints. It now only remains to be seen how the British claims acknowledged in Mr. Jefferson's letter of the 5th of September, 1793, were disposed of.

This was done by the insertion in the treaty concluded by Mr. Jay American State on the 19th of November, 1794, of articles providing for the appointment of commissioners to consider the compensation to be awarded 520. (Article VII) in cases of complaints made by United States merchants

of loss and damage sustained "by reason of irregular or illegal captures or condemnations of their vessels and other property under color of authority or commissions from his Majesty;" and also in cases of complaints of his Majesty's subjects, "that in the course of the war they have sustained loss and damage by reason of the capture of their vessels and merchandise taken within the limits and jurisdiction of the States, and brought into the ports of the same, or taken by vessels originally armed in ports of the said States,"

"where restitution shall not have been made agreeably to the tenor of the letter from Mr. Jefferson to Mr. Hammond, dated at Philadelphia, September 5, 1793." And (Article XXI) it is likewise "agreed that the subjects and citizens of the two nations shall not do any acts of hostility or violence against each other, nor accept commissions or instructions so to act from any foreign prince or state," &c.

"ART. XXIV. It shall not be lawful for any foreign privateers, (not being subjects or citizens of either of the said parties,) who have commissions from any other prince or state in enmity with either nation, to arm their ships in the ports of either of the said parties, nor to sell what they have taken," &c.

"ART. XXVIII. It is agreed that the first ten articles of this treaty shall be permanent, and the subsequent articles, except the twelfth, (providing for trade with the West Indies,) shall be limited in their duration to twelve years" from the exchange of ratifications.

As previously stated, Mr. Jefferson's letter of the 5th of September, 1793, was annexed to this treaty, so that the effect of the 7th article was to make compensation to Great Britain for all prizes taken by vessels fitted out by France in the United States after the 5th of June, 1793, (the date of Mr. Jefferson's letter of prohibition to Mr. Genet,) if such prizes had been brought into ports of the United States; but not to make compensation for any prizes brought in by vessels fitted out before the 5th of June, 1793, or for any prizes whatever not brought into United States ports.

Having thus traced the United States neutrality law from its origin in the proclamation of the 22d of April, 1793, to the act of 1794, it may be convenient to notice some of the principal decisions in the Supreme Court of cases illustrative of the operation of the law as thus originally framed.

February, 1794, the *aloop Betsy*, (a vessel captured by the French privateer the *Citizen Genet*, and sent in to Baltimore.)

Judgment.—No foreign power can rightfully erect any court of judicature within the United States unless by force of a treaty.

The admiralty jurisdiction exercised by consuls of France in the United States is not of right.

August, 1795. *Talbot vs. Janson*. Case of a Dutch vessel, the *Magdalena*, brought into Charleston by the privateer *L'Ami de la Liberté*, alleged to have been an American-owned ship, armed and equipped in Chesapeake Bay and Charleston.

Judgment.—The capture of a vessel of a country at peace with the United States, made by a vessel fitted out in one of our ports and commanded by one of our citizens, is illegal; and if the captured vessel is brought within our jurisdiction the district courts, upon a libel for a tortious seizure, may inquire into the facts and decree restitution.

Restitution decreed with damages.

August, 1796. *Moodie vs. The ship Alfred*.

* Re-enacted March 2, 1797, and made perpetual April 24, 1800.

† This was the first treaty providing for a commission to investigate British and American claims. A second commission was appointed under the treaty of Ghent of 1814, to consider claims arising from the seizure of slaves; and a third under the convention of February 8, 1853, for the general settlement of outstanding claims.

Decisions in the Supreme Court of the United States. Curtis, vol. i, page 74.

Curtis, vol. 1, page 128.

Judgment.—It is not a violation of the neutrality laws of the United States to sell to a foreigner a vessel built in this country, though fitted to be a privateer, and having some equipments calculated for war, but frequently used for merchant ships.

Restitution refused.

August, 1796. *Moodie vs. The ship Phoebe Anne.*

Judgment.—Under the XIXth article of the treaty with France a privateer has a right to make repairs in our ports.

The replacement of her force is not an augmentation of it.

Restitution refused.

In June, 1797, a short act was passed prohibiting any citizen of the United States, "without the limit of the same," from fitting out and arming, &c., any private ship or vessel of war with intent, &c., or taking the command of or entering on board of, or purchasing any interest in, any such vessel, under penalty of a fine of \$10,000 or imprisonment for not more than ten years.

This act was entirely repealed by the act of 1818.

The restriction imposed on intercourse with France in 1799, by the act of Congress of the 9th of February, put a stop to any further privateering cases, and the next report of a decision affecting international relations occurs in February, 1804.

Church vs. Hubbard. Case of the *Aurora*, seized at Para for attempted smuggling. The case was brought before the United States court on an insurance claim.

In pronouncing judgment, Chief Justice Marshall observed: "The authority of a nation within its own territory is absolute and exclusive. The seizure of a vessel within the range of its cannon by a foreign force is an invasion of that territory, and is a hostile act which it is its duty to repel. But its power to secure itself from injury may certainly be exercised beyond the limits of its territory. Upon this principle the right of a belligerent to search a neutral vessel on the high seas for contraband of war is universally admitted.

A case arose in 1808 as to the validity of the capture by a French privateer of a ship dispatched from a port held by the St. Domingo rebels, and the subsequent condemnation of her cargo in the court of the French delegate at Santo Domingo, (*Rose v. Himely*. Case of the *Sarah*, February, 1808.) Among other matters affecting the law of prize, it was laid down that whether a revolted colony is to be treated as a sovereign state is a political question, to be decided by governments, not by courts of justice; and the courts of the United States must consider the ancient state of things as remaining until the sovereignty of the revolted colony is acknowledged by the government of the United States.

Restitution decreed without costs.

In March, 1806, Miranda's expedition against Caracas was fitted out at New York. The expedition consisted of the *Leander*, armed vessel of eighteen guns, and two schooners. Miranda was met by two Spanish ships of war off Puerto Cabello. An action ensued, in which he lost his schooners and was compelled to take refuge at Grenada. Fifty-seven of his followers were taken in the schooners and carried to Puerto Cabello, where they were tried for piracy, ten of them condemned to death and the rest to imprisonment.

President Jefferson, in his message to Congress of the 2d of December, 1806, speaks of this expedition in the following terms: "Having received information that, in another part of the United States, a great number of private individuals were combining together, arming, and organizing themselves, contrary to law, to carry on a military expedition against the territories of Spain, I thought it necessary, by proclamation as well as by special orders, to take measures for preventing and suppressing this enterprise, for seizing the vessels, arms, and other means provided for it, and for arresting and bringing to justice its authors and abettors. It was due to that good faith which ought ever to be the rule of action in public as in private transaction; it was due to good order and regular government, that while the public force was acting strictly on the defensive, and merely to protect our citizens from aggression, the criminal attempts of private individuals to decide for their country the question of peace or war by commencing active and unauthorized hostilities, should be promptly and efficaciously suppressed."

Writing to Don Valentine de Foronda in 1809, President Jefferson said of this transaction: "Your predecessor, soured on a question of etiquette against the administration of this country, wished to impute wrong to them in all their actions, even where he did not believe it himself. In this spirit he wished it to be believed that we were in unjustifiable co-operation in Miranda's expedition. I solemnly, and on my personal truth and honor, declare to you that this was entirely without foundation, and that there was neither co-operation nor connivance on our part. He informed us he was about to attempt the liberation of his native country from bondage, and intimated a hope of our aid, or connivance at least. He

was at once informed that although we had great cause of complaint against Spain and even of war, yet whenever we should think proper to act as an enemy it should be openly and above-board, and that our hostility should never be exercised by such petty means. We had no suspicion that he expected to engage men here, but merely to purchase military stores. Against this there was no law, nor consequently any authority, for us to interpose obstacles. On the other hand, we deemed it improper to betray his voluntary communication to the agents of Spain. Although his measures were many days in preparation at New York, we never had the least intimation or suspicion of his engaging men in his enterprise until he was gone; and I presume the secrecy of his proceedings kept them equally unknown to the Marquis Yrujo at Philadelphia and the Spanish consul at New York, since neither of them gave us any information of the enlistment of men until it was too late for any measures taken at Washington to prevent their departure. The officer in the customs who participated in this transaction with Miranda we immediately removed, and should have had him and others further punished had it not been for the protection given them by private citizens at New York, in opposition to the government, who, by their impudent falsehoods and calumnies, were able to overbear the minds of the jurors."

Mr. Dana, in his recent edition of Wheaton, remarks: "The Spanish government complained that a military expedition had been fitted out in New York, under Miranda, in 1806, to operate against Spain in South America. There seems no doubt that this might and ought to have been prevented by us." Wheaton's Elements of International Law is edited by R. H. Dana; 8th edition, 1866, page 558.—Note.

The war between Spain and her colonies broke out in 1810, and the United States government again found themselves placed in a position of great difficulty for maintaining their neutrality. The sympathies of the people of the United States were naturally warmly enlisted on behalf of their fellow republicans; while it would appear that the equipment of vessels to cruise against Spanish commerce was a profitable as well as a popular undertaking, and became a kind of commercial speculation. In December, 1810, a vessel named the *Exchange*, of Baltimore, was captured by a French privateer on a voyage to St. Sebastian's, in Spain; afterward coming to Philadelphia as a French public vessel under the name of the *Belcon*.

The schooner *Exchange* vs. *McFadden* and others, February, 1812. The French captain averred that he had put into Philadelphia from stress of weather, and produced an affidavit of the French consul verifying his commission, and stating that the public vessels of the Emperor of France never carry with them any other document or evidence that they belong to him than his flag, the commission, and the possession of his officers. Curtis, vol. ii, p. 478.

Judgment.—A public armed vessel in the service of a sovereign at peace with the United States is not within the ordinary jurisdiction of our tribunals while in a port in the United States.

But the sovereign power of the United States may interpose and impart such a jurisdiction.

Restitution refused.

February, 1815.—The brig *Alerta* and cargo vs. *Blas*.

Judgment.—If a capture be made by a privateer which had been illegally equipped in a neutral country, the prize courts of such neutral country have power, and it is their duty, to restore the captured property, if brought within their jurisdiction, to its owner. Curtis, vol. iii, p. 379.

Vessel and cargo restored.

On the 1st of September, 1815, President Madison issued a proclamation prohibiting the outfit of illegal expeditions in the United States: "Whereas, information has been received that sundry persons, citizens of the United States, or residents within the same, and especially within the State of Louisiana, are conspiring together to begin and set on foot, provide, and prepare the means for a military expedition or enterprise against the dominions of Spain, with which the United States are happily at peace; that for this purpose they are collecting arms, military stores, provisions, vessels, and other means, and deceiving and seducing honest and well-meaning citizens to engage in their unlawful enterprises; or organizing, officering, and arming themselves for the same, contrary to the laws in such cases made and provided. I have therefore thought fit to issue this my proclamation, warning and enjoining all faithful citizens who have been led, without due knowledge or consideration, to participate in the said unlawful enterprises, to withdraw from the same without delay, and commanding all persons whatsoever engaged or concerned in the same to cease all further proceedings therein, as they will answer the contrary at their peril. And I hereby enjoin and require all officers, civil and military, of the United States, or of any of the States or Territories, all judges, justices, and other officers of the peace, all military officers of the army or navy of the United States, and officers of the militia, to be vigilant, each within his respective department, and according to his

functions, in searching out and bringing to punishment all persons engaged or concerned in such enterprises; in seizing and detaining, subject to the disposition of the law, all arms, military stores, vessels, or other means provided or providing for the same, and in general in preventing the carrying on such expedition or enterprise by all the lawful means within their power; and I require all good and faithful citizens and others within the United States to be aiding and assisting herein, and especially in the discovery, apprehension, and bringing to justice all such offenders, in preventing the execution of their unlawful combinations or designs, and in giving information against them to the proper authorities.

"JAMES MADISON.

"WASHINGTON, September 1, 1815."

Annual Register, 1816. In 1816 the Portuguese-Brazilian government intervened by force in Buenos Ayres, and thus became a party to the contest between Spain

American State Papers, vol. iv, p. 403. American State and her South American colonies. In December of that year President Madison communicated to Congress the following message:

"WASHINGTON, December 26, 1816.

"It is found that the existing laws have not the efficacy necessary to prevent violations of the obligations of the United States as a nation at peace toward belligerent parties, and other unlawful acts in the high seas by armed vessels equipped within the waters of the United States.

"With a view to maintain more effectually the respect due to the laws, to the character, and to the neutral and pacific relations of the United States, I recommend to the consideration of Congress the expediency of such further legislative provisions as may be requisite for detaining vessels actually equipped, or in a course of equipment, with a warlike force, within the jurisdiction of the United States; or, as the case may be, for obtaining from the owners or commanders of such vessels adequate securities against the abuse of their armaments, with the exceptions in such provisions of the cases of merchant vessels furnished with the defensive armaments used on distant and dangerous expeditions, and of a private commerce in military stores permitted by our laws, and which the law of nations does not require the United States to prohibit.

"JAMES MADISON."

The Committee on Foreign Affairs at the same time laid before the House of Representatives some papers relating to the subject, among which were a letter from the Secretary of State, (Mr. Monroe,) reporting "That the provisions necessary to make the laws effectual against fitting out armed vessels in our ports for the purpose of hostile cruising seem to be—

"1st. That they should be laid under bond not to violate the treaties of the United States or the obligations of the United States under the law of nations, in all cases where there is reason to suspect such a purpose on foot, including the cases of vessels taking on board arms and munitions of war, applicable to the equipment and armament of such vessels subsequent to their departure.

"2d. To invest the collectors, or other revenue officers where there are no collectors, with power to seize and detain vessels under circumstances indicating strong presumption of an intended breach of the law; the detention to take place until the order of the Executive, on a full representation of the facts had thereupon can be obtained. The statute book contains analogous powers to this above suggested. (See particularly the 11th section of the act of Congress of April 25, 1808.)

"The existing laws do not go to this extent. They do not authorize the demand of security in any shape, or any interposition on the part of the magistracy as a preventive, where there is reason to suspect an intention to commit the offense. They rest upon the general footing of punishing the offense where, if there be full evidence of the actual perpetration of the crime, the party is bonded over after the trial to the penalty denounced."

United States Statutes at Large, vol. iii, p. 370. On the 3d of March, 1817, a short act was passed, in which (in order to meet a question which had been raised as to whether the South

British and Foreign State Papers, vol. iv, p. 830. American armies, not being formerly recognized as independent communities, came within the scope of the act of 1794) the terms "army, district, or people," are inserted after the phrase "prince or state," as it stands in the first section of the act of 1794.

The recommendations of the President and Mr. Monroe were partially carried out by provisions in the 2d and 3d sections of this act for a bond being taken from the owners of suspected vessels.

The President, in his message to Congress of the 2d of December, 1817, called attention to piratical establishments which had been constituted at Amelia Island and Galveston, and stated that instructions had been given for their suppression. "The establishments, if ever

sanctioned by any authority whatever, which is not believed, have abused their trust and forfeited all claim to consideration."

It appears that these places were used as rendezvous for smugglers and slave dealers, who introduced slaves from them into the United States in defiance of the laws.

Amelia Island was in Spanish territory, and had been the subject of negotiation between Spain and the United States.

Galveston was in the disputed territory on the Spanish and United States boundary.

It appears that "among the avowed projects of the persons who had occupied Amelia Island was that of making a conquest of East and West Florida, professedly for the purpose of establishing there an independent government. . . . The greater part of West Florida being in the actual possession of the United States, this project involved in it designs of direct hostility against them; and, as the express object of the resolution and act of January 15, 1811, was to authorize the President to prevent the province of East Florida from passing into the hands of any foreign power, it became the obvious duty of the President to exercise the authority vested in him by that law."

Moreover, it was "a matter of public notoriety that two of the persons who had successively held the command at Amelia Island, whether authorized themselves by any government or not, had issued commissions for privateers, as in the name of the Venezuelan and Mexican governments, to vessels fitted out in the ports of the United States, and chiefly manned and officered by United States citizens."

The Galveston establishment was formed by a Commodore Oury, principally for the purpose of privateering and slave dealing. He issued commissions in the name of the Mexican Republic, and fitted out his vessels in United States ports, and brought his prizes to Galveston, where they were condemned by a fictitious admiralty court, and the prize vessels and cargoes afterwards sent to the United States for sale. Some of these prizes were restored to the original owners by process in the Louisiana district court.

A United States force was dispatched against both these establishments, and in December, 1817, they were forcibly suppressed. Spain remonstrated against the occupation of Amelia Island, but the United States government stated that it was a temporary measure which had been carried out in the public interest, and was not intended as an infraction of any Spanish rights of sovereignty.

In 1818 a further foreign enlistment act was passed (April 3) repealing and revising the acts of 1794, 1797, and 1817. This act is the one now in force.

The principal points in which it differs from the act of 1794 are as follows:

SECTION 1. Instead of the words "foreign prince or state," the words are "foreign prince, state, colony, district, or people," and so throughout the act.

SEC. 2. Omits the last paragraph of indemnity to the informer.

SEC. 3. Has "within the limits of the United States," instead of "within any of the ports, harbors, bays, rivers, or other waters." The penalty is made \$10,000 instead of \$5,000.

SEC. 4. Has no corresponding clause in the act of 1794. It provides against the equipment of vessels "without the limits" of the United States to commit hostilities "upon the citizens of the United States or their property," under penalty of a fine of \$10,000 or imprisonment for not more than ten years.

This clause is similar in its general provisions to the act of 1797, with the material difference that that act provided for the punishment of an offense committed "without the limits" of the United States upon "the citizens or property of any prince or state with whom the United States are at peace, or upon the citizens of the United States or their property."

SEC. 5. Is the same as section 4 in the act of 1794, with the addition of "or by changing those on board of her for guns of a larger caliber" after the words "by adding to the number of the guns in such vessel."

SEC. 6. (same as Sec. 5.) The penalty is made one year instead of three years' imprisonment.

SECS. 7 and 8. Same as Secs. 8 and 9.

SECS. 10 and 11. The "bonding" clauses are nearly the same as those in the act of 1817, and as they are of importance as constituting the chief difference between the English and American foreign enlistment acts, are here given at length:

"SEC. 10. And be it further enacted, That the owners or consignees of every armed ship or vessel sailing out of the ports of the United States, belonging wholly or in part to citizens thereof, shall enter into bond to the United States, with sufficient sureties, prior to clearing out the same, in double the amount of the value of the vessel and cargo on board, including her armament, that the said ship or vessel shall not be em-

American State Papers, vol. iv, p. 132.

American State Papers, vol. iv, p. 153.

United States Statutes at Large, vol. iii, p. 447.

British and Foreign State Papers, vol. ix, p. 382.

ployed by such owners to cruise or commit hostilities against the subjects, citizens, or property of any foreign prince or state, or of any colony, district, or people with whom the United States are at peace.

"SEC. 11. *And be it further enacted*, That the collectors of the customs be, and they are hereby, respectively authorized and required to detain any vessel manifestly built for warlike purposes, and about to depart the United States, of which the cargo shall principally consist of arms and munitions of war, when the number of men shipped on board, or other circumstances, shall render it probable that such vessel is intended to be employed by the owner or owners to cruise or commit hostilities upon the subjects, citizens, or property of any foreign state, or of any colony, district, or people with whom the United States are at peace, until the decision of the President be had thereon, or until the owner or owners shall give such bond and security as is required of the owners of armed ships by the preceding section of this act."

SEC. 12. Repeals the acts of 1794 and 1797.

A few more decisions in the Supreme Court remain to be noticed.

Curtis, vol. iv, The "Divina Pastora," February, 1819.
page 345.

Judgment.—The government of the United States having recognized the existence of a civil war between Spain and her colonies, our courts are bound to recognize as lawful those acts which war authorizes, and the new government in South America.

Captures made under their commission must be treated by us like other captures.

Their legality cannot be determined in our courts, unless made in violation of our neutrality.

The pleadings being defective in form, the cause was remanded to the circuit court.

The result does not appear.

Curtis, vol. iv, February, 1819, the "Estrella."
page 406.

Judgment.—In the absence of any act of Congress on the subject, the courts of the United States would have authority, under the general law of nations, to decree restitution of property captured in violation of their neutrality.

Vessel and cargo restored with costs.

Ibid., vol. iv, February, 1820, "La Amistad de Rues."
page 673.

Judgment.—In cases of violation of our neutrality by any of the belligerents, if the prize comes voluntarily within our territory it is restored to the original owners by our courts. But their jurisdiction for this purpose under the law of nations extends only to restitution of the specific property, with costs and expenses during the pendency of the suit, and does not extend to the infliction of vindictive damages or compensation for plunderage, as in ordinary cases of marine torts.

In delivering judgment, Chief Justice Story observed: "We entirely disclaim any right to inflict such damages, and consider it no part of the duty of a neutral nation to interpose, upon the mere footing of the law of nations, to settle all the rights and wrongs which may grow out of a capture between belligerents. Strictly speaking, there can be no such thing as a marine tort between the belligerents. Each has an undoubted right to exercise all the rights of war against the other, and it cannot be a matter of judicial complaint that they are exercised with severity, even if the parties do transcend those rules which the customary laws of war justify. At least, they have never been held within the cognizance of the prize tribunals of neutral nations. The captors are amenable to their own government exclusively for any excess or irregularity in their proceedings, and a neutral nation ought no otherwise to interfere than to prevent captors from obtaining any unjust advantage by a violation of its neutral jurisdiction. Neutral nations may, indeed, inflict pecuniary or other penalties on the parties for any such violation; but it then does it professedly, in vindication of its own rights, and not by way of compensation to the captured. When called upon by either of the belligerents to act in such cases, all that justice seems to require is that the neutral nation should fairly execute its own laws and give no asylum to the property unjustly captured. It is bound, therefore, to restore the property if found within its own ports; but beyond this it is not obliged to interpose between the belligerents. If, indeed, it were otherwise, there would be no end to the difficulties and embarrassments of neutral prize tribunals. They would be compelled to decide, in every variety of shape, upon marine

* Mr. Bemis, in his pamphlet on "American Neutrality," published at Boston in 1866, remarks: "To my own appreciation both of these 'bonding' clauses, as they are called, had most of their neutral virtue taken out of them when Congress made them applicable—(1.) To 'vessels belonging wholly or in part to citizens of the United States,' thereby leaving *foreigners* at liberty to clear unneutrally armed ships, (see project of the act, Ann. Cong., 1816-17, p. 477, sec. 1.) (2.) When they limited the bond so as only to prevent '*such owners*' from cruising or committing hostilities, instead of making the bond guard against belligerent employment of the vessel by '*any person to whom they (such owners) may sell or pretend to sell such vessel.*' (Ann. Cong., 1816-17, p. 478, sec. 2.) And (3.) by requiring that any vessel to be subject to detention must have on board 'a cargo principally consisting of arms and munitions of war,' thus letting go at large a vessel armed to the teeth, and 'manifestly built for warlike purposes,' provided she adopts the precaution of taking no such cargo with her, and is owned by *foreigners.*'"

trespasses *in rem* and *in personam* between belligerents, without possessing adequate means of ascertaining the real facts, or of compelling the attendance of foreign witnesses, and thus they would draw within their jurisdiction almost every incident of prize. Such a course of things would necessarily create irritations and animosities, and very soon embark neutral nations in all the controversies and hostilities of the conflicting parties. Considerations of public policy came, therefore, in aid of what we consider the law of nations on this subject, and we may add that Congress in its legislation has never passed the limit which is here marked out."

The action was brought on appeal from the district court, which had ordered restitution and awarded damages against the captors on the ground of an illegal augmentation of force at New Orleans. The claimants having failed to prove such an augmentation of force before the Supreme Court, the sentence of the district court was reversed, and the prize restored to the captor, (the Venezuelan privateer *La Guerrière*), and the damages disallowed, as stated above.

February, 1822. The "*Santissima Trinidad*" and the "*St. Ander*." Curtis, vol. v,

This was a claim preferred by the Spanish consul, as representing the page 269.
Spanish owners, for "eighty-nine bales of cochineal, two bales of jalap, and one box of vanilla, originally constituting part of the cargoes of the Spanish ships *Santissima Trinidad* and *St. Ander*, and alleged to have been unlawfully and piratically taken out of those vessels on the high seas, by a squadron consisting of two armed vessels called the *Independencia del Sud* and the *Altravida*, and manned and commanded by persons assuming themselves to be citizens of the United Provinces of the Rio de la Plata."

Chief Justice Story thus stated the case as regarded the *Independencia*: "She was originally built and equipped at Baltimore as a privateer during the late war with Great Britain, and was then rigged as a schooner and called the *Mammoth*, and sailed against the enemy. After the peace she was rigged as a schooner and sold by her original owners. In January, 1816, she was loaded with a cargo of munitions of war by her new owners, (who are inhabitants of Baltimore,) and being armed with 12 guns, constituting a part of her original armament, she was dispatched from that port under the command of the claimant on a voyage, ostensibly to the northwest coast, but in reality to Buenos Ayres. By the written restrictions given to the supercargo on this voyage, he was authorized to sell the vessel to the government of Buenos Ayres if he could obtain a suitable price. She duly arrived at Buenos Ayres, having exercised no act of hostility, but sailed under the protection of the American flag during the voyage. At Buenos Ayres the vessel was sold to Captain Chaytor and two other persons; and soon afterward she assumed the flag and character of a public ship, and was understood by the crew to have been sold to the government of Buenos Ayres; and Captain Chaytor made known these facts to the crew, and asserted that he had become a citizen of Buenos Ayres, and had received a commission to command the vessel as a national ship, and invited the crew to enlist in the service, and the greater part of them accordingly enlisted. From this period, which was in May, 1816, the public functionaries of our own and other foreign governments at that port considered the vessel as a public ship of war, and such was her avowed character and reputation. No bill of sale of the vessel to the government of Buenos Ayres is produced, and a question has been made, principally from this defect in the evidence, whether her character as a public ship is established. It is not understood that any doubt is expressed as to the genuineness of Captain Chaytor's commission, nor as to the competency of the other proofs in the cause introduced to corroborate it. The only point is, whether, supposing them true, they afford satisfactory evidence of her public character. We are of opinion that they do. In general, the commission of a public ship, signed by the proper authorities of the nation to which she belongs, is complete proof of her national character. * * *

The commission of a public ship when duly authenticated, so far at least as foreign courts are concerned, imports absolute verity and the title is not examinable. * * *

"There is another objection urged against the admission of this vessel to the privileges and immunities of a public ship. * * *

It is that Buenos Ayres has not yet been acknowledged as a sovereign independent government by the Executive or legislature of the United States, and therefore is not entitled to have her ships of war recognized by our courts as national ships. We have in former cases had occasion to express our opinion on this point. The government of the United States has recognized the existence of a civil war between Spain and her colonies, and has avowed a determination to remain neutral between the parties, and to allow to each the same right of asylum and intercourse. Each party is therefore deemed by us a belligerent nation, having, so far as concerns us, the sovereign rights of war, and entitled to be respected in the exercise of those rights. * * *

"The next question growing out of this record is, whether the property in question was captured in violation of our neutrality, so that restitution ought, by the law of nations, to be decreed to the belligerents. Two grounds are relied upon to justify restitution: 1. That the *Independencia* and *Altravida* were originally equipped, armed,

and manned as vessels of war in our ports. 2. That there was an illegal augmentation of the force of the Independencia within our ports.

"The question as to the original illegal armament and outfit of the Independencia may be dismissed in a few words. It is apparent that, though equipped as a vessel of war, she was sent to Buenos Ayres on a commercial adventure, contraband indeed, but in no shape violating our laws or our national neutrality. If captured by a Spanish ship of war during the voyage, she would have been justly condemnable as good prize for being engaged in a traffic prohibited by the law of nations. But there is nothing in our laws, or in the law of nations, that forbids our citizens from sending armed vessels, as well as munitions of war, to foreign ports for sale. It is a commercial venture, which no nation is bound to prohibit, and which only exposes the persons engaged in it to the penalty of confiscation. Supposing, therefore, the voyage to have been for commercial purposes, and the sale at Buenos Ayres to have been a *bona fide* sale, (and there is nothing in the evidence before us to contradict it,) there is no pretense to say that the original outfit in the voyage was illegal, or that a capture made after the sale, for that cause alone, is invalid."

On the second point, the court found that there had been a subsequent illegal augmentation of force both of the Independencia and of the Altravida, and on this ground the prize was ordered to be restored to the Spanish claimants.

February, 1822.—The "Gran Para."

Judgment.—It is firmly settled that if captures are made by vessels Curtia, vol. v. which have violated our neutrality acts, the property may be restored page 302. if brought within our territory.

A vessel armed and manned in one of our ports and sailing thence to a belligerent port, with the intent thence to depart on a cruise with the crew and armament obtained here, and so departing, and capturing belligerent property, violates our neutrality laws, and her prizes coming within our jurisdiction will be restored.

A *bona fide* termination of the cruise for which the illegal armament was here obtained puts an end to the disability growing out of the violation of our neutrality laws, which does not attach indefinitely, but a colorable termination has no such effect.

The prize, bullion taken out of the Portuguese vessel Gran Para, and brought to Baltimore in September, 1818, in the capturing privateer Irresistible, sailing under the Artigan flag, was restored to the Portuguese claimants, with costs.

February, 1823.—"La Nereyda."

Curtia, vol. v. This was an action brought by the Spanish consul for the recovery page 374. of the brig Nereyda.

The Nereyda was a Spanish ship of war, captured in 1818 by the privateer Irresistible, of which John Daniels was the commander and Henry Childs lieutenant, and which had been illegally equipped at Baltimore. The Nereyda was carried to the island of Margaritta under the command of Childs as prize master. It was alleged that at Margaritta the Nereyda was condemned as prize, and sold to one Franchesche; but no proof of the sale was adduced; and it appeared that during the short time she remained at Margaritta she was under the control of Childs, who obtained a commission as a privateer for her from the Venezuelan government, changed her name to the El Congreso de Venezuela, and sailed back in her to the United States, where she was, eventually libeled at Baltimore.

Childs opposed the claim of the Spanish consul by a counter claim on behalf of the alleged purchaser, Franchesche.

The case was brought up on appeal from the district court. Time was allowed to the respondent to produce a copy of the judgment of the Margaritta prize court, and also to show that the sale there was a real one, and Franchesche a *bona fide* purchaser.

Childs failed to produce this evidence, and it having been shown that, although four years had elapsed since the pretended sale, Franchesche had never asserted any rights over the vessel, which had continued in the possession of Childs and Daniels since the capture, the decree of the district court was reversed, and the vessel restored to the

Spanish consul.

Curtia, vol. x. United States vs. Quincy, January, 1832. page 189.

The question before the court was as to the instructions which ought to have been given to the jury of the circuit court for the Maryland district in a prosecution against John D. Quincy for a violation of the act of 1818.

In December, 1828, the Bolivar, a small vessel of 70 tons, sailed for Baltimore from St. Thomas under the command of Quincy, with her owner, Armstrong, on board. At St. Thomas, Armstrong fitted her out as a privateer under the name of Las Damas Argentinas, to cruise under the Buenos Ayres flag against Brazil. Quincy continued to command her and made some prizes. He afterwards returned to the United States, and the prosecution in question was instituted against him for being concerned in fitting out the Bolivar.

Judgment.—"It is not necessary that the jury should believe or find that the Bolivar, when she left Baltimore and when she arrived at St. Thomas, and during the voyage from Baltimore to St. Thomas, was armed, or in a condition to commit hostilities, in order to find the defendant guilty of the offense charged in the indictment.

"The first instruction, therefore, prayed on the part of the defendant must be denied, and that on the part of the United States given.

"The second and third instructions asked on the part of the defendant were :

"That if the jury believe that when the Bolivar was fitted and equipped at Baltimore the owner and equipper intended to go to the West Indies in search of funds with which to arm and equip the said vessel, and had no present intention of using or employing the said vessel as a privateer, but intended, when he equipped her, to go to the West Indies to endeavor to raise funds to prepare her for a cruise, then the defendant is not guilty.

"Or if the jury believe that when the Bolivar was equipped at Baltimore, and when she left the United States, the equipper had no fixed intention to employ her as a privateer, but had a wish so to employ her, the fulfillment of which wish depended on his ability to obtain funds in the West Indies for the purpose of arming and preparing her for war, then the defendant is not guilty.

"We think these instructions ought to be given. The offense consists principally in the intention with which the preparations were made. These preparations, according to the very terms of the act, must be made within the limits of the United States, and it is equally necessary that the intention with respect to the employment of the vessel should be formed before she leaves the United States. And this must be a fixed intention, not conditional or contingent, depending on some future arrangements. This intention is a question belonging exclusively to the jury to decide. It is the material point on which the legality or criminality of the act must turn, and decides whether the adventure is of a commercial or warlike character.

"The law does not prohibit armed vessels belonging to citizens of the United States from sailing out of our ports; it only requires the owner to give security (as was done in the present case) that such vessels shall not be employed by them to commit hostilities against foreign powers at peace with the United States.

"The collectors are not authorized to detain vessels, although manifestly built for warlike purposes, and about to depart from the United States, unless circumstances shall render it probable that such vessels are intended to be employed by the owner to commit hostilities against some foreign power at peace with the United States.

"All the latitude, therefore, necessary for commercial purposes, is given to our citizens, and they are restrained only from such acts as are calculated to involve the country in war."

Other cases might be quoted, but it is only intended to convey a general idea of the ruling of the United States courts in carrying out the neutrality laws. There does not appear to have occurred, either during the French war or the South American war, any case similar to the Alabama, where the vessel was dispatched to an unoccupied island, and there met by another vessel bringing her armament and crew. This no doubt is owing in some measure to the difficulty there might have been in carrying out such a project with sailing vessels.

The Spanish and Portuguese claims, arising out of the system of privateering pursued by American citizens under the flags of the revolted colonies, have recently been so fully discussed in the communications between Lord Russell and Mr. Adams, respecting the Alabama and Shenandoah cases, that a short account of the correspondence will probably be sufficient for the purposes of the present memorandum.

The treaty between Spain and the United States of America of the 27th of October, 1795, contained the following stipulation :

"ARTICLE XIV. No subject of his Catholic Majesty shall apply for or take any commission or letters of marque for arming any ship or ships to act as privateers against the said United States, or against the said citizens, people, or inhabitants of the said United States, or against the property of any of the inhabitants of any of them, from any prince or state with which the United States shall be at war.

"Nor shall any citizen, subject, or inhabitant of the said United States apply for, or take, any commission or letters of marque for arming any ships to act as privateers against the subjects of his Catholic Majesty, or the property of any of them, from any prince or state with which the said King shall be at war. And if any person of either nation shall take such commissions or letters of marque, he shall be punished as a pirate."

When diplomatic relations between Spain and the United States, which had been suspended in 1808, were renewed in 1815, the Spanish minister addressed a note to the Secretary of State containing proposals as the basis of negotiation for the settlement of the various differences in dispute between the two countries.

The Chevalier de Onis mentions as one of the points on which an understanding was urgent, "That the President will be pleased to give the necessary orders to the collectors of customs not to admit into the ports of the United States vessels under the insurrectionary flag of Carthage, of the Mexican Congress of Buenos Ayres, or of the other places ¹⁰⁹ which have revolted against the authority of the King, my master, nor

Parliamentary Papers, "North America, No. 1, 1861," &c.

American State Papers, vol. iv, p. 423. British State Papers, vol. iii, p. 109.

those coming from them, that they should not permit them to land, or to sell in this country the shameful proceeds of their piracy or atrocities, and much less to equip themselves in these ports, as they do, for the purpose of going to sea to destroy and to plunder the vessels which they may meet with under the Spanish flag. This tolerance, subversive of the most solemn stipulations in the treaties between Spain and the United States, and diametrically opposed to the general principles of public security and good faith, and to the laws of nations, produces the most melancholy effects on the interest and the prosperity of the subjects of his Catholic Majesty. Certain it is that neither Carthagena nor any other place in the Spanish dominions in this hemisphere, which has revolted, can be in communication with any power friendly to Spain, since neither on its part, nor on that of any other government, has their independence been acknowledged; and it is, consequently, an offense against the dignity of the Spanish monarchy, and against the sovereignty of the King, my master, to admit vessels from such places, manned and commanded by insurgents, and armed in the dominions of this confederation, particularly as they are all pirates who do not respect any flag, are justly considered the disgrace of the seas, and are execrated by all nations." (The Chevalier de Onis to the Secretary of State, December 30, 1815.)

Mr. Monroe replied, "With regard to your third demand, the exclusion of the flag of the revolting provinces, I have to observe that, in consequence of the unsettled state of many countries, and repeated changes of the ruling authority in each, there being at the same time several competitors, and each party bearing his appropriate flag, the President thought it proper, some time past, to give orders to the collectors not to

make the flag of any vessel a criterion or condition of its admission into the ports of the United States." And he added: "What will be the final result of the civil war which prevails between Spain and the Spanish provinces in America is beyond the reach of human foresight. It has already existed many years, and with various success, sometimes one party prevailing and then the other. In some of the provinces the success of the revolutionists appears to have given to their cause more stability than in others. All that your government had a right to claim of the United States was that they should not interfere in the contest, or promote, by any active service, the success of the revolution, admitting that they continued to overlook the injuries received from Spain, and remained at peace. This right was common to the colonists. With equal justice might they claim that we would not interfere to their disadvantage; that our ports should remain open to both parties, as they were before the commencement of the struggle; that our laws regulating commerce with foreign nations should not be changed to their injury. On these principles the United States have acted." (Mr. Monroe to the Chevalier de Onis, January 19, 1816.)

American State Papers, vol. iv, p. 431. On the 10th of June, 1816, Mr. Monroe forwarded to the Chevalier de Onis a copy of a report from Mr. Dick, attorney of the United States for the district of Louisiana, dated March 1, 1816, denying the chevalier's allegations of the open enlistment of men and equipment of expeditions to serve against Spain. "A regard to truth makes it necessary to say that what is alleged respecting the arming and fitting out of vessels within the waters of Louisiana, to be employed in the service of the revolutionary governments against the subjects or property of the King of Spain, is unfounded. At no period since the commencement of the struggle between the Spanish colonies and the mother country have vessels, to be employed in the service of the colonies, been permitted to fit out and arm or to augment their force at New Orleans or elsewhere within the State of Louisiana.

"On the contrary, it is notorious that at no one point of duty have the civil and military authorities of the United States directed more strenuously, or, it is believed, more successfully, their attention than to the discovering and suppression of all attempts to violate the laws in these respects. Attempts to violate them by fitting out and arming and by augmenting the force of vessels have no doubt been frequent, but certainly in no instance successful, except where conducted under circumstances of concealment that eluded discovery and almost suspicion, or where carried on at some remote point of the coast beyond the reach of detection or discovery. In every instance where it was known that these illegal acts were attempting, or where it was afterwards discovered that they had been committed, the persons engaged, as far as they were known, have been prosecuted, while the vessels fitted out, or attempted to be fitted out, have been seized and libeled under the act of the 5th of June, 1794; and when captures have been made by vessels thus fitted out and armed, or in which their force was augmented or increased within our waters, where the property taken was brought within our jurisdiction, or even found upon the high seas by our cruisers and brought in, it has been restored to the original Spanish owners, and, in some instances, damages awarded against the captors."

Mr. Dick appended a list, showing that during the year 1815 seven persons had been prosecuted and six vessels libeled under the act of 1796, (of which three were condemned,) and prizes restored to the Spanish claimants in nine cases.

It does not appear, however, that the measures adopted by the officers of the United

States government, referred to by Mr. Dick, were efficacious in preventing violations to the foreign enlistment act to the satisfaction of the Spanish minister, British State Papers, vol. v, p. 365.
 on the 2d of January, 1817, he addressed a further representation to the Secretary of State: "The mischiefs resulting from the toleration of the armament of privateers in the ports of this Union, and of bringing into them, with impunity, the plunder made by these privateers on the Spanish trade, for the purpose of distributing it amongst those merchants who have no scruple in engaging in these piracies, have arisen to such a height that I should be wanting in my duty if I omitted to call your attention again to this very important subject. It is notorious, that although the speculative system of fitting out privateers, and putting them under a foreign flag, one disavowed by all nations, for the purpose of destroying the Spanish commerce, has been more or less pursued in all the ports of the Union, it is more especially in those of New Orleans and Baltimore, where the greatest violations of the respect due to a friendly nation, and, if I may say so, of that due to themselves, have been committed; whole squadrons of pirates having been sent out from thence, in violation of the solemn treaty existing between the two nations, and bringing back to them the fruits of their piracies, without being yet checked in these courses, either by the reclamations I have made, those of his Majesty's consuls, or the decisive and judicious orders issued by the President for that purpose." M. de Onis complains in this note of the proceedings of several privateers at Baltimore, New York, Norfolk, and New Orleans.

No answer seems to have been returned to M. de Onis's note.

In January, February, and March M. de Onis sent in twelve other notes in the same strain, and on the 28th of March the acting Secretary of State informed him that inquiry would be made and "adequate redress and punishment enforced, should it appear that the laws have been infringed by any of the acts complained of." British State Papers, vol. v, pp. 368-379.

Five more notes from M. de Onis, followed, principally complaining of the captures effected by the *Independencia del Sud* and *Altravida*, (see case of *Santissima Trinidad*), and the asylum afforded to those vessels as well as to the Congress, Mongore, and other privateers in American ports. State Papers, vol. v, pp. 380-397.

On the 2d of April the acting Secretary of State inquired whether M. de Onis had power to conclude a treaty, as, if not, it was "deemed improper to entertain discussions of the kind invited by" his late notes. Ibid., p. 398.

M. de Onis continued his representations in eight more notes, in one of which, addressed to Mr. J. Q. Adams, dated the 2d of November, 1817, he says: "It is very disagreeable to me to have to repeat to you, sir, what unfortunately I have been several times under the necessity of submitting to the President through the medium of your predecessors; namely, that the act of Congress of the 3d of March, 1817, has in no wise lessened the abuses by which the laws are evaded, and render entirely illusory the laudable purposes for which they were enacted. From the greater part of the ports of these States there frequently sail a considerable number of vessels, with the premeditated intention of attacking the Spanish commerce, which carry their armament concealed in the hold. It rarely happens that they can be arrested, inasmuch as the collectors of customs say that they have not at their disposition the naval force necessary to effect it; on the other hand, armed vessels, under the flag of the insurgents, enter into the ports of the Union, and not only supply themselves with all necessaries, but also considerably increase the means they already have of destroying the trade of Spain, as has recently been the case at New York, whereby the (so-called) privateers of his Majesty's revolted provinces, which are in reality nothing more than pirates, manned by the scum of all countries, enjoy greater privileges than the vessels of independent powers." Ibid., pp. 398-415.

In May, 1818, M. de Onis, referring to a French expedition prepared at Philadelphia under General Lallemant, and which was supposed to be intended to operate against Mexico, stated to Mr. Adams, "I would have considered myself dispensed from the necessity of again pressing this subject on your attention if it had appeared possible for me to restrain these armaments by the employment of judicial means; but unfortunately the act of Congress of the 20th of April last, for preserving neutrality with foreign nations, and others already in force, although highly judicious, are easily eluded; and although these practices are public, and notorious throughout the whole Union, his Majesty's consuls advise me that through a deficiency of evidence they cannot be restrained by a regular application of the law." (The Chevalier de Onis to Mr. Adams, May 7, 1818.) American State Papers, vol. iv, p. 199.

On the 9th of June, 1818, M. de Onis represented that there were then at Baltimore four privateers—the *Independencia del Sud*, the *Mongore*, the *Republicano*, and the *Alerta*, three of which were notoriously fitted out there, and the fourth was a schooner captured from Spanish owners. All these vessels were commanded by Americans, and manned, with scarcely an exception, by American crews; that, however clear the facts might be to everybody, it was in vain to seek evidence to prove them, "as a great portion of the commercial people of Baltimore being interested in the cases which produce my present" British State Papers, vol. vi, p. 225.

reclamations, no one is willing to come forward and offer testimony against what is termed the general interest."

M. de Onís continued his complaints during the summer of 1818, and called attention particularly to the purchase and equipment of two privateers at New York. *Ibid.*, vol. vi, p. 262.

Mr. Adams at length replied as follows:

"I have received your letters of the 27th ultimo and 5th instant, with their respective inclosures, all of which have been laid before the President. With regard to the two vessels alleged to have been equipped at New York for the purpose of cruising under the flag of Buenos Ayres against Spanish subjects, the result of the examination which has taken place before a judge of the Supreme Court of the United States has doubtless convinced you that no prosecution commenced by the government of the United States against the persons charged with a violation of their laws and their neutrality could have been necessary or useful to you, no transgression of the law having been proved against them.

* * * * *

"I am further instructed by the President to assure you of the satisfaction with which he has seen, in the last paragraph of your letter, your expectation of being speedily enabled to make proposals containing the bases of a treaty which may adjust, to mutual satisfaction, all the existing differences between our two nations, and his earnest hope that this expectation, in the fulfillment of which this government have confided, and adopted measures corresponding with it, may be realized at an early day."

M. de Onís to Mr. Adams, October 24, 1818. Negotiations were shortly afterwards set on foot for the conclusion of a treaty between the two countries, for the settlement of the differences which had so long existed between them, and among the proposals put forward by the Spanish government were a mutual renunciation of "all claims for damages or injuries which they themselves, or their respective subjects or citizens, may have suffered," and the adoption of such laws or measures as might be required "to remedy and cut up by the roots the abuses which, contrary to the law of nations, and contrary to what is expressly stipulated in the treaty of 1795, above cited, daily occur in some ports of this Union, in consequence of the vague and arbitrary interpretation which it seems the measures until now adopted are susceptible of, and by which means the law is eluded." (Mr. Adams to the Chevalier de Onís, October 24, 1818.)

State Papers, vol. v, p. 265.

Ibid., pp. 267-277.

British State Papers, vol. vi, p. 261. The United States government assented to the mutual renunciation of claims, but refused the other proposal, as they considered there was no occasion for any new laws or declarations. "Of the many complaints which you have addressed to this government in relation to alleged transactions in our ports, the deficiency has been, not in the meaning or interpretation of the treaty, but in the proof of the facts which you have stated, or which have been reported to you, to bring the cases of complaint within the scope of the stipulations of the treaty." (Mr. Adams to M. de Onís, October 31, 1818.)

To this the Spanish minister rejoined:

British State Papers, vol. vi, p. 265. "Whatever may be the forecast, wisdom, and justice conspicuous in the laws of the United States, it is universally notorious that a system of pillage and aggression has been organized in several ports of the Union against the vessels and property of the Spanish nation; and it is equally so, that all the legal suits hitherto instituted by his Catholic Majesty's consuls in the courts of their respective districts, for its prevention, or the recovery of the property when brought into this country, have been, and still are, completely unavailing. The artifices and evasions by means of which the letter of the law has on these occasions been constantly eluded are sufficiently known, and even the combination of interests in persons who are well-known, among whom are some holding public offices. With a view to afford you and the President more complete demonstration of the abuses, aggressions, and piracies alluded to, I inclose you correct lists, extracted from authentic documents deposited in the archives of this legation, exhibiting the number of privateers or pirates fitted out in the United States against Spain, and of the prizes brought by them into the Union, as well as of those sent to other ports, together with the result of the claims made by the Spanish consuls in the courts of this country. Among them you will find the case of two armed ships, the *Horatio* and *Curiazo*, built at New York, and detained by his Majesty's consul there on the ground of their having on board 30 pieces of cannon concealed, with their carriages, and a crew of 160 men. On which occasion it was pretended that it could not be proved that these guns were not an article of commerce, and they finally put to sea without them, the extraordinary number of officers and crew passing for passengers. The number of privateers or pirates fitted out or protected in the ports of this republic, as well as of the Spanish prizes made by them, far exceeds that contained in the within lists; but I only lay before your government those of which I have certain and satisfactory proofs. The right of Spain to an adequate indemnity for all the spoiliations committed by these privateers or pirates on the Crown and subjects of his Catholic Majesty, is undeniable; but I now submit it to your government, only to point out the extreme

necessity of putting an end to these continued acts of hostility and depredation, and of cutting short these enormous and flagrant abuses and evils, by the adoption of such effectual precautions and remedies as will put it out of the power of cupidity or ingenuity to defeat or elude them. In vain should we endeavor amicably to settle and accommodate all existing differences, and thus establish peace and good understanding between the two nations, if the practice of these abuses and the course of these hostilities and piracies on the commerce and navigation of Spain should, as heretofore, continue uninterrupted in the United States." (The Chevalier de Onis to Mr. Adams, November 16, 1818.)

The Secretary of State, in reply, expressed the readiness of his government to continue the negotiations, provided the Spanish minister would consent to waive a certain portion of his proposition, (relating to the transactions in Florida and the western boundary,) but added, that if he did not feel at liberty to proceed with the negotiations on those terms, he (Mr. Adams) was ready to exchange with him the ratifications of the convention of 1802. (Mr. Adams to M. de Onis, November 30, 1818.)

On the 22d of February, 1819, a treaty of amity, settlement, and limits was concluded at Washington between the United States of America and his Catholic Majesty, and the following is a statement of the claims which each party consented to renounce:

ARTICLE IX. "The two high contracting parties, animated with the most earnest desire of conciliation, and with the object of putting an end to all the differences which have existed between them, and of confirming the good understanding which they wish to be forever maintained between them reciprocally, renounce all claims for damages or injuries which they themselves, as well as their respective citizens and subjects, may have suffered until the time of signing this treaty.

"The renunciation of the United States will extend—

"1. To all the injuries mentioned in the convention of 11th August, 1802.

"2. To all claims on account of prizes made by French privateers and condemned by French consuls within the territory and jurisdiction of Spain.

"3. To all claims and indemnities on account of the suspension of the right of deposit at New Orleans in 1802.

"4. To all claims of citizens of the United States upon the Spanish government, statements of which, soliciting the interposition of the government of the United States, have been presented to the Department of State, or to the minister of the United States in Spain, since the date of the convention of 1802, and until the signature of this treaty.

"The renunciation of his Catholic Majesty extends—

"1. To all the injuries mentioned in the convention of 11th August, 1802.

"2. To the sums which his Catholic Majesty advanced for the return of Captain Pike from the Provincias Internas.

"3. To all injuries caused by the expedition of Miranda, which was fitted out and equipped at New York.

"To all claims of Spanish subjects upon the government of the United States arising from unlawful seizures at sea or within the ports and territorial jurisdiction of the United States.

"Finally, to all the claims of subjects of his Catholic Majesty upon the government of the United States, in which the interposition of his Catholic Majesty has been solicited before the date of this treaty, and since the date of the convention of 1802, or which may have been made to the department of foreign affairs of his Majesty or to his minister in the United States.

"And the high contracting parties respectively renounce all claim to indemnities for any of the recent events or transactions of their respective commanders and officers in the Floridas.

"The United States will cause satisfaction to be made for the injuries, if any, which by process of law shall be established to have been suffered by the Spanish officers and individual Spanish inhabitants by the late operations of the American army in Florida."

This treaty concludes the published correspondence respecting the Spanish claims.

The correspondence between Portugal and the United States will be found in a convenient shape for reference in the appendix to the "Alabama" papers, republished by Messrs. Longmans, Green & Co., in 1867.

It was laid before Congress on the 4th of February, 1852, together with the correspondence relating to the claims of United States citizens in Portugal arising out of the case of the General Armstrong.

See also British State Papers, vol. 222. The following is the succinct account of this correspondence, given in Lord Russell's note to Mr. Adams of the 30th of August, 1835, (Parliamentary paper, North America, No. 1, 1866, p. 26:)

"The correspondence to which I refer began in December, 1816, and closed with a letter of the Portuguese minister in November, 1850. It cannot be pretended that the

Executive Documents, House of Representatives, No. 53, 32d Congress, 1st session.

reclamations of a friendly power extending over thirty-four years did not receive the gravest attention of the American government.

"In his first letter, the Portuguese envoy at Washington complains that Mr. Taylor, of Baltimore, an American citizen, had directed Captain Fish, of the *Romp*, an American ship, to cruise as a privateer under the insurgent colors of Buenos Ayres against the subjects of Portugal.

"He adds, 'The 18th of last month (November) the frigate *Clifton*, Captain Davis, armed with thirty-two guns of various calibers, and a crew of 200 men, sailed from Baltimore for Buenos Ayres. This ship anchored below that port, where it has remained for about a fortnight or more waiting for the American ship *Independence of the South*, armed with 16 guns, and for the ships *Romp*, *Tachahoe*, *Montezuma*, and *Spanker*, and two others newly constructed, which were fitting with great activity and which had not yet got names. All were to sail together, to cruise in the eastern and western seas of South America, under the insurgent colors of Buenos Ayres. No doubt can be entertained of their instructions being the same as those of Captain Fish, and that they will act hostily against Portuguese ships.'

"The Portuguese envoy, Joseph Correo de Serra, prays for an amendment of the law of the United States with a view to render it more efficient in such cases. A law having been passed by Congress for this purpose, the Portuguese envoy, in May, 1817, requests that the President will desire the United States officers on the outposts to use greater vigilance.

"In March, 1818, he complains that three Portuguese ships have been captured 'by privateers fitted in the United States, manned by American crews, and commanded by American captains, though under insurgent colors.'

"In October of the same year the Portuguese envoy complains that a Portuguese prize is fitting in the *Patuxent*, to cruise against Portuguese commerce.

"In November of the same year the Portuguese minister states to Mr. Adams that, obliged by his duty to inquire into the nature of the armed ships that had of late insulted the flag of his sovereign and committed incalculable depredations on the property of his subjects, he had found, to his sorrow, multiplied proofs that many of them were owned by citizens of the United States, and had been fitted in the ports of the Union. He goes on to complain of the difficulties in the way of prosecution, but compliments the President on his 'honorable earnestness.'

"In December of the same year the Portuguese minister complains of the armed vessel *Irresistible*, which had been committing 'depredations and unwarrantable outrages on the coast of Brazil.' He says, it is proved by depositions that John Daniels, the commander of the ship, is an American, and all the crew are Americans. He prays that, if the ship should come into an American port, means may be taken to bring the said captain and crew within reach of the laws made to punish such scandalous proceedings.

"In March, 1819, M. Correa de Serra states, as minister of his sovereign, that Artigas, whose flag is frequently waving in the port of Baltimore, and which is carried by Portuguese prizes in the ports of the Union, has been expelled far from the countries which could afford him the power of navigating, and has not a foot length of sea-shore in South America where he can show himself. He prays that the Artigan flag may be declared illegal.

"In November, 1819, after expressing his gratitude for the proceedings of the Executive, the same minister complains that the evil is rather increasing. He is in possession of a 'list of fifty Portuguese ships, almost all richly laden, some of them East Indiamen, which had been captured during a period of profound peace. One city alone on the coast of the United States had twenty-six armed ships which preyed on Portuguese commerce, and a week ago three armed ships of this kind were in that port waiting for a favorable occasion for sailing on a cruise.

"In June, 1820, the Portuguese minister complains that a Portuguese prize had been sold by auction at Baltimore to Captain Chase, (a notorious privateersman,) and was to be immediately fitted out as a privateer to cruise against the Portuguese Indiamen.

"In July of the same year the Portuguese minister sends a list of 'the names and value of nineteen Portuguese ships and their cargoes, taken by *private armed ships, fitted in the ports of the Union, by citizens of those States.*' His sovereign wishes the affair to be treated with that candor and conciliating dignified spirit which becomes two powers who feel a mutual esteem and have a proper sense of their moral integrity. 'In this spirit I have the honor to propose to this government to appoint commissioners on their side, with full powers to confer and agree with his Majesty's ministers on what reason and justice demand.'

"In December, 1820, the Chevalier Amado Grehon transmitted to Mr. Adams a copy of twelve claims, with the value of the ships, desiring him to add them to the list furnished by the Chevalier Correa de Serra.

"In April, 1822, the same minister repeats the proposal made in July, 1820, 'of having recourse to commissaries chosen by both governments for the purpose of arranging the indemnities justly due to Portuguese citizens for the damage which they have sustained

by reason of piracies supported by the capital and the means of citizens of the United States; an essential condition which, in this way repairing the past, secures also the future.

"On the 25th of May, 1850, the chargé d'affaires of Portugal, writing to the Secretary of State of the United States, declares, 'The undersigned is authorized to come to an understanding with the new Secretary of State upon the subject, and to submit the voluminous documents and papers in his possession to the joint examination and decision of the commissioners or arbitrators appointed by the American government on the one part, and the undersigned on behalf of her Majesty's government on the other,' &c.

"Having thus related the complaints of the Portuguese government during the years which elapsed from 1816 to 1822, and from 1822 to 1850, I will now give from the organs of the United States the answers which that government gave to these solemn and reiterated complaints.

"In March, 1817, the Secretary of State transmitted to the Portuguese minister at Washington an act of Congress, passed on the 3d of that month, to preserve more effectually the neutral relations of the United States. On the 14th of March, 1818, in answer to a letter complaining of the capture of three Portuguese ships by privateers, Mr. Adams says:

"The government of the United States having used all the means in its power to prevent the fitting out and arming of vessels in their ports to cruise against any nation with whom they are at peace, and having faithfully carried into execution the laws enacted to preserve inviolate the neutral and pacific obligations of this Union, cannot consider itself bound to indemnify individual foreigners for losses by captures, over which the United States have neither control nor jurisdiction. For such events no nation can in principle, nor does in practice, hold itself responsible. A decisive reason for this, if there were no other, is the inability to provide a tribunal before which the facts can be proved.

"The documents to which you refer must of course be *ex parte* statements, which in Portugal or in Brazil, as well as in this country, could only serve as a foundation for actions in damages, or for the prosecution and trial of the persons supposed to have committed the depredations and outrages alleged in them. Should the parties come within the jurisdiction of the United States, there are courts of admiralty competent to ascertain the facts upon litigation between them, to punish the outrages which may be duly proved, and to restore the property to its rightful owners should it also be brought within our jurisdiction, and found, upon judicial inquiry, to have been taken in the manner represented by your letter. By the universal law of nations the obligations of the American government extend no further.'

"The Secretary of State in subsequent letters promises to prosecute in the United States courts persons chargeable with a violation of the laws of the United States in fitting out and arming a vessel within the United States for the purpose of cruising against the subjects of the Queen of Portugal.

"To the proposal to appoint commissioners, made in July, 1820, the United States Secretary of State, on the 30th of September of the same year, replies as follows:

"The proposal contained in your note of the 16th of July last has been considered by the President of the United States with all the deliberation due to the friendly relations subsisting between the United States and Portugal, and with the disposition to manifest the undeviating principle of justice by which this government is animated in its intercourse with all foreign governments, and particularly with yours. I am directed by him to inform you that the appointment of commissioners to confer and agree with the ministers of his most faithful Majesty upon the subject to which your letter relates, would not be consistent either with the Constitution of the United States, nor with any practice usual among civilized nations.'

"He proceeds to say:

"If any Portuguese subject has suffered wrong by the act of any citizen of the United States within their jurisdiction, it is before those tribunals that the remedy is to be sought and obtained. For any acts of citizens of the United States committed out of their jurisdiction and beyond their control, the government of the United States is not responsible.

"To the war in South America, to which Portugal has for several years been a party, the duty and the policy of the United States has been to observe a perfect and impartial neutrality.'

"The same reply is again given to Chevalier Amado Grehon in a letter dated the 30th of April, 1822:

"I am at the same time directed to state that the proposition of the Chevalier Correa de Serra, in his note of the 16th of July, 1820, for the appointment of commissaries chosen by both governments to arrange indemnities claimed by Portuguese citizens for damages stated by them to have been sustained by reason of piracies supported by the capital and means of citizens of the United States, cannot be acceded to. It is a principle well known and well understood that no nation is responsible to another for the

acts of its citizens, committed without its jurisdiction and out of the reach of its control.'

"The policy of the United States is further explained in a dispatch of Mr. Secretary Adams to General Dearborn, dated the 25th of June, 1822. It is there set forth that in the critical state of the relations of the two countries it is necessary to employ the agency of a person fully qualified to represent the interests of the United States. It is affirmed that whenever Portuguese captured vessels have been brought within the jurisdiction of the United States, decrees of restitution have been pronounced.

"In referring, however, to the list of captures, and the demand of a joint commission to determine and assess the damages to be paid by the United States, the former refusal was thus repeated: 'As there was no precedent for the appointment of such a commission under such circumstances, and as not a single capture had been alleged for which the United States were justly responsible, this proposal was of course denied; and nothing further was heard upon the subject until the 1st of April last, when a note was received from the present chargé d'affaires of Portugal, leading to a correspondence, copies of which are now furnished you.'

"The correspondence seems not to have been resumed till 1850, when, as has been shown, the demand for a commission was repeated.

"The Secretary of State of the United States thereupon gave this summary and final answer, dated May 30, 1850:

"The undersigned is surprised at the reappearance of these absolute reclamations, accompanied by the renewal of the ancient proposition to appoint a joint commission to determine and assess damages, a proposition which was rejected at the time upon substantial grounds; and without the minister's assurance to that effect, the undersigned would not have supposed it credible that Portugal seriously cherished any intention to revive them. In reply, therefore, to the note which the minister of her most faithful Majesty has presented in the name of his government, the undersigned must now, by the President's order, inform him that he declines reopening the proffered discussion.'

"This dispatch is signed 'John M. Clayton.'

"A long and able dispatch of the Portuguese minister at Washington, recapitulating all the grievances of Portugal, dated November 7, 1850, does not appear to have received an answer."

After the close of the war between Spain and Portugal, Brazil, and the South American provinces, the foreign enlistment act seems not to have been called into requisition in any prominent case until 1848, when the United States prohibited a ship of war, purchased for the German fleet during the war with Denmark, from sailing from New York except under the bond required by the act of 1818.

In 1850 a remarkable instance was afforded of the manner in which the foreign enlistment act could openly be defied, when the sympathies of the American people were in favor of the offenders, in the expedition against Cuba under Lopez.

Annual Register, 1850. Lopez had been for some time preparing an expedition for the invasion of Cuba, and on the 7th of May, 1850, left New Orleans in a steamer with about five hundred men, accompanied by two other vessels, and

on the 17th landed at Cardenas, a small town on the northwest side of the island. Lopez occupied the town; but shortly afterward troops arrived from Havana, and he was compelled to re-embark, and escaped to Savannah.

Memoir of Lopez, in the New York Herald; quoted in the Chronicle of the 23d of September, 1851. On the 27th of May Lopez was arrested, (see Judge Betts's charge, in the Times of the 13th of June, 1850,) but "no delay being granted by the district judge to procure evidence against him, he was discharged, amid the cheers of a large crowd. On the 15th of July, forty-two of the country prisoners (passengers) were liberated by the Spanish authorities, and were taken to Pensacola by the United States ship Albany.

Ten of them were retained for trial. On the 21st of July the grand jury of the United States district court at New Orleans found a true bill against Lopez and fifteen others for violating the act of 1818. The government failed in making out its case against one or two of the parties, and finally abandoned the prosecution."

President's message, December 1, 1851. Undeterred by the failure of the first expedition, Lopez at once set to work to organize another, in which he was "countenanced, aided, and joined by citizens of the United States." * * * "Very early in the

Annual Register, 1851. morning of the 3d of August, 1851, a steamer called the Panpero departed from New Orleans for Cuba, having on board upwards of four hundred armed men, with evident intentions to make war upon the authorities of that island." The United States government, having received intelligence that such designs were entertained, had issued a proclamation warning American citizens of their unlawful character, and had also given instructions to the proper officers of the United States. However, in spite of these measures, the steamer in which the filibusters were embarked "left New Orleans stealthily and without a clearance, and, after touching at Key West, proceeded to the coast of Cuba."

The expedition landed in Cuba on the 12th of August, and proved an entire failure.

The Spanish troops defeated the invaders without difficulty, and either took prisoner or dispersed the whole body. Fifty of the prisoners were shot, and Lopez publicly executed at Havana. The intelligence of the execution of Lopez and the prisoners, forty of whom are stated to have been Americans, produced a great excitement in the United States. A riot took place at New Orleans, in which the Spanish consulate was sacked; mass meetings were held at the principal cities for the purpose of denouncing the conduct of the Cuban authorities, and further expeditions projected. The Spanish government, however, released and sent back to the United States a number of prisoners, who complained bitterly of having been deceived by Lopez by exaggerated accounts of the condition of affairs in Cuba; and the public feeling in the United States gradually cooled down, without any more attempts being made against the island.

In 1855 the Maury was detained at New York on the information of her Majesty's consul that she was intended for a Russian privateer. The evidence, however, failed, and Sir Joseph Crampton, her Majesty's minister, withdrawing the charge against her, the Maury sailed, and nothing more was heard of the matter. It was supposed that she really was intended for a privateer to act in the China seas, but that the peace of 1856 prevented her from being thus used.

The expeditions of Miranda in 1806, and of Lopez in 1850 and 1851, were rivaled in flagrant violation of the foreign enlistment act by the proceedings of Walker and the Central American filibusters in 1857, 1858, 1859.

The disturbed state of the Central American republics, especially Nicaragua, rendered them a tempting prey to such adventurers, and in November, 1857, it was notorious that Walker was fitting out a filibustering expedition.

On the 10th of that month he was arrested at New Orleans and held to bail in \$2,000 (about £400) to appear on the 11th for examination, on a charge of infringing the act of 1818. On the morning of the 11th, however, he embarked with three hundred unarmed followers for Mobile, where the party were met by a steamer called the *Fashion*, with fifty recruits on board, and set sail, as was supposed, for Central America. The United States government gave orders for them to be pursued, and Commodore Paulding succeeded in arresting Walker.

In reporting these occurrences, Lord Napier, then her Majesty's minister at Washington, states, "I believe that the President and General Case sincerely deprecate and regret the present attempt to invade the peace of Central America." (Lord Napier to the Earl of Clarendon, No-
 Parliamentary Papers, correspondence respecting Central America, 1856-60. Presented 1860, page 67.)

It does not appear whether Walker was brought to trial for this offense, but if so the proceedings could not have been very efficacious, as in the following year he renewed his preparations for an expedition on a larger scale, and on the 30th of October, 1858, President Buchanan issued a proclamation: "Whereas information has reached me, from sources which I cannot disregard, that certain persons, in violation of the neutrality laws of the United States, are making a third attempt to set on foot a military expedition within their territory against Nicaragua, a foreign state with which they are at peace." * * * "From these circumstances the inference is irresistible that persons engaged in this expedition will leave the United States with hostile purposes against Nicaragua. They cannot, under the guise which they have assumed that they are peaceful emigrants, conceal their real intentions, and especially when they know, in advance, that their landing will be resisted, and can only be accomplished by an overpowering force. This expedition was successfully resorted to previous to the last expedition, and the vessel in which those composing it were conveyed to Nicaragua obtained a clearance from the collector of the port of Mobile. Although, after a careful examination, no arms or munitions of war were discovered, yet, when they arrived in Nicaragua, they were found to be armed and equipped, and immediately commenced hostilities. Ibid., page 136.

"The leaders of former illegal expeditions of the same character have openly expressed their intention to renew hostilities against Nicaragua. One of them, who has already been twice expelled from Nicaragua, has invited, through the public newspapers, American citizens to emigrate to that republic, and has designated Mobile as the place of rendezvous and departure, and San Juan del Norte as the port to which they are bound. This person, who has renounced his allegiance to the United States, and claims to be President of Nicaragua, has given notice to the master of the port of Mobile that two hundred or three hundred of these emigrants will be prepared to embark from that port about the middle of November," &c., &c.

Notwithstanding this proclamation, the filibusters succeeded in
 sailing from Mobile on the 7th of December, 1858, in the "*Susan*," without a clearance. A revenue cutter attempted to stop her, but was forcibly resisted. Two other vessels, the "*Fashion*" and the "*Washington*," with military stores, afterward joined the "*Susan*," but the expedition broke down in consequence of the "*Susan*" being wrecked. Walker and his followers then proceeded to California by the Isthmus of Panama, whence they intended to make a descent on Punta Arenas. Ibid., p. 163.

This attempt was not carried into execution, and Walker returned to Louisiana and

organized a further expedition. The United States government gave directions to stop it, and concerted measures with the British and French governments to prevent any such expeditions landing on the coasts of Central America. Moreover, one hundred and fifty of the men concerned in the last attempt were arrested at New Orleans.

Ibid. pp. 296, 297. Nevertheless, Walker eluded the vigilance of the authorities, and again escaped without a clearance in the "Fashion" from Mobile, in November, 1859, having deceived the collector of customs by applying for a clearance, which the collector refused, for another steamer called the "Philadelphia." At the same time a large force of filibusters are stated to have got away from Charleston, Mobile, and other ports, by means of false papers and other similar devices.

Ibid. p. 328. In June, 1860, Walker, with a party of American filibusters, is reported to have arrived at the Bay Islands in the "John A. Taylor." Walker's career was eventually brought to a close by his being shot at Truxillo, September, 1860.

On the 6th of June, 1866, the President published a proclamation warning United States citizens against engaging in an apprehended expedition against Canada, (the Fenian raid,) and on the 5th of June the Attorney General instructed the district attorneys and marshals to arrest "all prominent, leading, or conspicuous persons called 'Fenians' whom they had probable cause to believe have been or may be guilty of violations of the neutrality laws." Some prosecutions were subsequently instituted against certain of the Fenian leaders, but abandoned.

In 1866 a resolution was adopted by the House of Representatives which resulted in an inquiry by the Committee of Foreign Affairs into the operation of the foreign enlistment act of 1818; and in July, General Banks presented the report of the committee,

with a draught of a bill by which it was proposed to alter the provisions of that act. The principal alterations proposed were the omission of section 4, (the clause forbidding the fitting out of privateers in foreign ports to cruise against American commerce,) sections 6 and part of 8, (giving the President power to stop military expeditions,) and sections 10 and 11, the bonding clauses.

The intention of this draught bill was to make the American act correspond with the British act, or, as was said at the time, to "scale down" the one to the proportions of the other. The report of the committee called forth a pamphlet by Mr. Bemis, in which he shows how inexpedient and impolitic the proposed alterations would have been, and compares the amended act with the British statute.

Copies of this pamphlet have been circulated among the commissioners.

Congress adjourned shortly after this report was presented and had been referred to the Senate, and in March, 1867, the Senate Committee of Foreign Affairs were "discharged from further consideration" of the bill.

In the meanwhile, a case had been brought before the district court at New York, in which the act of 1818 was enforced against a vessel alleged to be intended for the Chilian service in the war between Chili and Spain.

This vessel, the Meteor, had been built as a ship of war for sale to the United States government, but the civil war having terminated, the sale was not effected. She was acknowledged to have been built to carry eleven or twelve guns, and the negotiations of the agent of the owners for her sale to the Chilian government were shown by conclusive evidence.

"The World." The vessel was libeled in the district court in February, 1866, but New York, November. Judge Betts's decision in the case was not formally given until November 30, 1866.

In the elaborate judgment then delivered the standard decisions of the Supreme Court are reviewed at length.

The following are some of the more important passages :

"The crime denounced is fitting out or arming.

"It was strenuously urged by the counsel for the claimant, on the hearing, that the only crime created by the third section of the act of 1818 is the crime of fitting out and arming a vessel with the intent named in the statute; and that, although the attempt to commit that crime, or the procuring that crime to be committed, or the being knowingly concerned in committing that crime, is punishable under the statute, yet the body of the crime is the fitting out and arming, and nothing short of that is punishable under the statute, either against the wrongdoer personally, or against the offending res; and the interpretation sought to be put by the counsel upon these words of the statute, 'or shall knowingly be concerned in the furnishing, fitting out, or arming of any ship or vessel, with intent,' &c., is that it is not necessary to the criminality of the individual that he should have performed every part of the crime, but it is enough if he was knowingly concerned in any one step in the chain of conduct which completed the criminality, or would have completed it if carried out; but still the crime must be the crime

of fitting out and arming, either completed or attempted. But the court cannot adopt this interpretation of the statute. The mischief against which the statute intended to guard was not merely preventing the departure from the United States of an armed vessel, but the departure of any vessel intended to be employed in the service of any foreign power to cruise or commit hostilities against any other foreign power with whom the United States are at peace. The neutrality of the government of the United States, in a war between two foreign powers, would be violated quite as much by allowing the departure from its ports of an unarmed vessel with the clear intent to cruise or commit hostilities against one of the belligerents, as it would be by permitting the departure from its ports of an armed vessel with such intent. If the intent to cruise or commit hostilities exists when the vessel departs, and the vessel is one adapted to the purpose, the subsequent arming is a very easy matter. The facility with which this can be done was made manifest in the case of the *Shenandoah* and other vessels, which, during the late rebellion, left England unarmed, but with the full intent on the part of those who sent them forth that they should be used to cruise and commit hostilities against the United States, and were subsequently armed in neutral waters. It would be a very forced interpretation of the statute to say that it was not an offense against it to knowingly fit out a vessel with everything necessary to make her an effective cruiser, except her arms, and with the intent that she should become such a cruiser, because it should not be shown that there was any intent that she should be armed within the United States. The evil consequences which would flow from interpreting the statute to mean that the crime must include the arming of the vessel within the United States, become especially apparent in reference to that part of the third section which forbids the issuing or delivering a commission, within the territory or jurisdiction of the United States, for any ship or vessel, to the intent that she may be employed for the purpose named in the section. Under such an interpretation of the statute it would be no offense to issue or deliver a commission within the United States for any vessel, unless such vessel were actually armed at the time, or perhaps were intended to be armed prior to her departure from the United States; and it would be no offense to issue a commission within the United States for a vessel fitted and equipped to cruise or commit hostilities and intended to cruise and commit hostilities, so long as such vessel was not armed at the time, and was not intended to be armed within the United States, although it could be shown that a clear intent existed on the part of the person issuing or delivering the commission that the vessel should receive her armament the moment she should be beyond the jurisdiction of the United States." * * *

"THE SANTISSIMA TRINIDAD CASE.

"Much reliance was placed by the counsel for the claim, in his summing up, upon the doctrine supposed by him to have been laid down by the Supreme Court in the case of the *Santissima Trinidad*. That doctrine was stated by the counsel in various forms, but the principle contended for was, that freedom of commerce is allowed to a neutral to furnish to a belligerent warlike materials or warlike vessels as articles of merchandise or traffic; that, while the principle of the law of nations is recognized which prohibits neutral territory from being used by either belligerent as a vantage ground from which he may sally forth to commit hostilities upon the other belligerent, yet the right of citizens of the neutral country to sell all that their industry produces for purposes of war, as fair matter of trade, to any belligerent, cannot be interfered with; that it is no offense and no violation of neutrality to sell a vessel of war, armed or not armed, in our ports, to a belligerent power; and that there is the same right, under the law of nations, to sell in our ports an armed vessel, under such circumstances, that there is to sell guns or ammunition or any other raw material. At another stage of his argument the counsel maintained the proposition that unless it appeared affirmatively that the vessel was to sail out from the port of New York as an enlisted hostile ship of one belligerent, there was no criminality, although it should be made to appear by indisputable proof that she had been built, fitted, armed, and equipped as a ship of war, complete and ready for action.

"The views thus pressed upon the court have, in its judgment, no foundation in public law, or in any decision that has been made by the highest judicial tribunal of the United States. The case of the *Santissima Trinidad* was decided by the Supreme Court at the February term, 1822."

Judge Betts then gives an account of the facts of the case, (*vide ante*), and continues: "In the course of his opinion Mr. Justice Story discusses the point taken, that the *Independencia* was originally armed and fitted out in the United States contrary to law, and says: 'It is apparent that, though equipped as a vessel of war, she was sent to Buenos Ayres on a commercial adventure,' &c., &c. These views of Mr. Justice Story were, as is apparent from the statement which has been made of the case, *obiter dicta*, and not necessary to the decision of the cause, restitution of the property being decreed upon the ground of the illegal augmentation of the force of the capturing vessel in our ports prior to the capture. The facts in regard to the commercial adventure

of the Independencia, referred to by Mr. Justice Story, as they appear in the report of the case, were that that vessel, having been a privateer during the war between the United States and Great Britain, was, after the peace, sold by her original owners, and loaded by her new ones, at Baltimore, in January, 1816, with a cargo of munitions of war; that she sailed from Baltimore with them, and, armed with twelve guns, part of her original armament, to Buenos Ayres, under written instructions from her owners to her supercargo, authorizing him to sell the vessel to the government of Buenos Ayres if he could obtain a suitable price; and that she was sold at Buenos Ayres to parties who again sold her, so that she became a public commissioned vessel of the government of Buenos Ayres. It was on these facts that Judge Story remarked that the vessel, though equipped as a vessel of war, was sent to Buenos Ayres on a commercial adventure in no shape violating our laws or our national neutrality, and that there is nothing in our laws or in the law of nations that forbids our citizens from sending armed vessels to foreign ports for sale. If the Messrs. Forbes, or any of the owners of the Meteor, or Mr. Cary, their agent, or any of the parties concerned in the transactions in regard to the Meteor, had testified before the court on this trial that the Meteor was going out to Panama on a purely commercial adventure, to be sold there if a suitable price could be obtained, and if it appeared that there was no intent on the part of the owners or any other person that the vessel should be used to violate the neutrality of the United States, there might be some pretense that this case was within the principle thus laid down by Mr. Justice Story. But the whole testimony points in a different direction. The transactions with the agents of Chili at New York in regard to the Meteor were, it is true, a commercial adventure, in so far that the vessel was sold, and that such sale was a matter of trade or commerce at New York between her owners and the agents of the government of Chili. But in the sense in which Mr. Justice Story speaks of the sending of the Independencia to Buenos Ayres on a commercial adventure, there was no commercial adventure in the case of the Meteor."

* * * * *

THE DOCTRINES LAID DOWN IN THIS CASE ARE THE RESULT OF THE LEGISLATIVE, EXECUTIVE, AND JUDICIAL ACTION OF THE UNITED STATES.

The importance of this case, not merely in view of the pecuniary value of the vessel proceeded against, but also in respect to the principles of public law involved in it, have led the court to a more extended discussion of those principles than would otherwise have been necessary. The court, however, entertains no doubt as to the correctness of the doctrines of public law which it has applied to the present case. Those doctrines are the result of the legislative, executive, and judicial action of the public authorities and courts of the United States in a great variety of cases, and the court has nowhere found a more excellent summary of them than in Wheaton's International Law, (eighth edition, with notes by Dana, pages 562, 563, note 215 :) "As to the preparing of vessels within our jurisdiction for subsequent hostile operations, the test we have applied has not been the extent and character of the preparations, but the intent with which the particular acts are done. If any person does any act, or attempts to do any act, toward such preparation, with the intent that the vessel shall be employed in hostile operations, he is guilty, without reference to the completion of the preparations or the extent to which they may have gone, and although his attempt may have resulted in no definite progress toward the completion of the preparations. The procuring of materials to be used knowingly and with the intent, &c., is an offense; accordingly, it is not necessary to show that the vessel was armed, or was in any way or at any time, before or after the act charged, in a condition to commit acts of hostility." "Our rules do not interfere with *bona fide* commercial dealings in contraband of war. An American merchant may build and fully arm a vessel, and provide her with stores, and offer her for sale in our own market. If he does any acts as an agent or servant of a belligerent, or in pursuance of an arrangement or understanding with a belligerent that she shall be employed in hostilities when sold, he is guilty. He may, without violating our law, send out such a vessel, so equipped, under the flag and papers of his own country, with no more force of crew than is suitable for navigation, with no right to resist search or seizure, and to take the chances of capture as contraband merchandise, of blockade, and of a market in a belligerent port. In such case the extent and character of the equipments is as immaterial as in the other class of cases. The intent is all. The act is open to great suspicions and abuse, and the line may often be scarcely traceable, yet the principle is clear enough. Is the intent one to prepare an article of contraband merchandise to be sent to the market of a belligerent, subject to the chances of capture and of the market; or, on the other hand, is it to fit out a vessel which shall leave our port to cruise, immediately or ultimately, against the commerce of a friendly nation? The latter we are bound to prevent; the former the belligerent must prevent."

The judgment was given against the vessel, but she was eventually restored to her owners under bond, and what became of her afterward does not appear.

It must be remembered that this opinion of Judge Betts was not reviewed by the Supreme Court, and is therefore of inferior authority.

It has been much criticised, both in this country and in the United States.

This brings the history of the American foreign enlistment act down to the present time.

In 1838, on the outbreak of the rebellion in Canada, the United States government issued a proclamation cautioning United States citizens from assisting in it.

A strong military force was also sent to the frontier, and the President delivered a message to Congress recommending the enactment of some special measure to meet the occasion. In the mean while, an expedition was openly organized at Detroit. This expedition seized the arsenal, and the steamboats and ships lying off the Detroit wharves, and succeeded in getting off to Canada without hindrance. A military force was then ordered to the frontier, and sent to Plattsburg, where another expedition was said to be fitting out. A bill for the prevention of such expeditions was introduced into Congress, but not passed until the 10th of March, by which time the rebellion was nearly subdued.

This act, which was limited to two years, provided for the seizure and detention of any vessel, vehicle, or arms or munitions of war "provided or prepared for any military expedition or enterprise against the territory or dominions of any foreign prince or state, or of any colony, district, or people continuous with the United States."

British and Foreign State Papers, vol. xxv, page —.

Correspondence with Mr. Fox, her Majesty's minister at Washington.

Mr. Fox, No. 5, January 29, 1838.

Mr. Fox, No. 7, February 5, 1838.

United States Statutes at Large, vol. v, page 212.

THE BRITISH FOREIGN ENLISTMENT ACT.

The United States foreign enlistment act, as will have been seen, arose from the construction put on the terms of the treaty with France of 1778; the British foreign enlistment act may also be said to have arisen from the provision of a treaty—that with Spain of the 28th of August, 1814.

This treaty, or, as it is called, "Additional Articles to the Treaty of July 5, 1814," contains the following article:

"ARTICLE III. His Britannic Majesty, being anxious that the troubles and disturbances which unfortunately prevail in the dominions of his Catholic Majesty in America should entirely cease, and the subjects of those provinces should return to their obedience to their lawful sovereign, engages to take the most effectual measures for preventing his subjects from furnishing arms, ammunition, or any other article to the revolted in America."

British and Foreign State Papers, vol. i, page 292.

In 1818 the reactionary policy of King Ferdinand, the prohibitory duties imposed by him on British commerce, and the ingratitude with which he treated British officers and others who had served his cause in Spain, had provoked a great deal of irritation in England; and there was a considerable party in the House of Commons, headed by Sir James Macintosh, who were prepared to support the claims of the Spanish American colonies to independence.

Expeditions were said to be in preparation for rendering active assistance both to the malcontents in Spain and to the rebels in America, in spite of a proclamation forbidding such expeditions, which had been published in 1817; and the government consequently found that it was necessary, in order to keep good faith with Spain and to prevent infractions of British neutrality, to bring in an act of Parliament to provide for the case which now for the first time arose in modern history, of Great Britain being neutral at the time of a great maritime war.

The history of the British neutrality law at that period is thus stated by Sir R. Phillimore:

"The statute of the third of James I, chapter four, made it felony for any person whatever to go out of the realm to serve any foreign prince, without having first taken the oath of allegiance before his departure. It was felony also for any gentleman, or person of higher degree, or for one who had borne any office in the army, to go out of the realm to serve such foreign prince or state, without previously entering into a bond with two sureties, not to be reconciled to the See of Rome, or enter into any conspiracy against his natural sovereign. And further it was enacted by statute 9 Geo. II, c. 30, enforced by statute 29 Geo. II, c. 17, if any subject of Great Britain shall enlist himself, or if any person shall procure him to be enlisted, in any foreign service, or detain or embark him for that purpose, without license under the King's sign-manual, he shall be guilty of felony without benefit of clergy; but if the person so enlisted or enticed shall discover his seducer within fifteen days, so as he may be apprehended and convicted of the same, he shall be indemnified. It was moreover, by statute 29 Geo. II, c. 17, enacted that to serve under the French King as a military officer shall be felony without benefit of clergy; and to enter into the Scotch brigade, in the Dutch service, without previously taking the oaths of allegiance and abjuration, shall be a forfeiture of £500."

Phillimore's International Law, vol. iii, ed. 1857, page 212.

The act for the amendment of the neutrality laws was introduced by Mr. Canning

on the 10th of June, 1819, in an eloquent speech, in the course of which he said: "It surely could not be forgotten that in 1793 this country complained of various breaches of neutrality (though much inferior in degree to those now under consideration) committed on the part of subjects of the United States of America. What was the conduct of that nation in consequence? Did it resent the complaint as an infringement of its independence? Did it refuse to take such steps as would insure the immediate observance of neutrality? Neither. In 1794, immediately after the application from the British government, the legislature of the United States passed an act prohibiting, under heavy penalties, the engagement of American citizens in the armies of any belligerent power. Was that the only instance of the kind? It was but last year that the United States passed an act by which the act of 1794 was confirmed in every respect, again prohibiting the engagement of their citizens in the service of any foreign power, and pointing distinctly to the service of Spain or the South American provinces."

On the other hand, Sir James Macintosh inveighed against the act as a left-handed neutrality, and as aimed at the struggling independence of South America. Sir W. Scott spoke in favor of the bill on the third reading on the 21st of June, and it was passed by a majority of sixty-one.

Many amendments had, however, been introduced into it, and among others the insertion of the words "as a transport or store-ship" in the seventh clause. This was intended to prevent British ships being hired to take troops from Spain to America; but the result has been to create the greatest confusion of meaning in the act.

The passing of this act seems to have put a stop, for the time at least, to the dispatch of expeditions against Spain; and in April, 1823, Lord Althorp moved for the repeal of the act. Mr. Canning, in reply, entered into the question of the neutrality of England, and pointed out that, far from being aimed exclusively at South America, this act was in reality in favor of the colonies, as it extended to Spain the prohibition to export arms, &c., which had been already provided for against them by the treaty of 1814. Referring to the United States law, he said: "If I wished for a guide in a system of neutrality, I should take that laid down by America in the days of the presidency of Washington and the secretaryship of Jefferson. In 1793 complaints were made to the American government that French ships were allowed to fit out and arm in American ports, for the purpose of attacking British vessels, in direct opposition to the laws of neutrality. Immediately upon this representation the American government held that such a fitting out was contrary to the laws of neutrality; and orders were issued prohibiting the arming of any French vessel in American ports. At New York a French vessel fitting out was seized and delivered over to the tribunals and condemned. Upon that occasion the American government held that such fitting out of French ships in American ports for the purpose of cruising against English vessels was incompatible with the sovereignty of the United States, and tended to interrupt the peace and good understanding which subsisted between that country and Great Britain. Here, I contend, is the principle of neutrality upon which we ought to act. It was upon this principle that the bill in question was enacted."

The motion was rejected by a majority of one hundred and six.

The neutrality law of the United States having formed the foundation of the neutrality law of this country, and the decisions of the judges of that country having been, as it were, incorporated in the law of nations, the application of the United States foreign enlistment act has been treated of at some length; but as it would be useless to attempt within the compass of a memorandum to go into the intricate questions of "intent," "equipping, fitting out, or arming," &c., &c., which have at various times been raised under the British act, it is only proposed to mention some of the leading instances in which it has been put into operation or suspended.

Phillimore, vol. iii, page 229. In 1827 an expedition of four vessels, under the command of Count Saldanha, sailed from Plymouth ostensibly for Brazil, but in reality, as was supposed, to operate against the party of Don Miguel in Terceira. Her Majesty's ship Walpole, with some gunboats, was sent to Terceira to intercept this expedition. This was done off Port Praya, and the Walpole escorted the expedition back to the channel. It eventually went to Breast. The Walpole subsequently stopped another expedition off Port Praya which had sailed from London.

In 1835 an order in council was passed exempting British subjects engaging in the service of Isabella of Spain from the penalties of the foreign enlistment act. This enabled the Spanish Legion, under Sir De Lacy Evans, to be formed. A debate took place on the question in June, 1835, but the competency of the Crown to make such a relaxation was not disputed.

In 1846 certain British merchants complained that an expedition was being prepared to sail under General Florez against Ecuador. Their representation was supported by several of the South American ministers. It appeared that three vessels, the Glenelg, Monarch, and Neptune, were ready to set sail with a large number of emigrants, or, as it was said, troops on board.

Correspondence with home office and treasury, October and November, 1846.

Cobbett's Parliamentary Debates, vol. xi, page 1103.

Cobbett's "Parliamentary Debates," New Series, vol. viii, page 1019.

Phillimore, vol. iii, page 229.

Phillimore, vol. iii, pages 218 and 219.

board, and that men had been openly enlisted for General Florez's service. The vessels were seized and condemned.*

In 1847 the Portuguese minister complained that the Black Cat was being fitted out to proceed with volunteers for the Portuguese rebel service. The vessel was seized, but released. Correspondence with Baron Moncorvo, April and May, 1847.

Shortly afterward he made another complaint of a number of British subjects having taken service at Oporto under the revolutionary leaders. He was told in reply that the English law did not extend to such acts committed in a foreign country.

A Mr. Hislop, however, who had returned from Portugal after serving in the rebel army, was denounced by the Portuguese minister, and would have been proceeded against had the law officers considered the evidence sufficient.

On the 30th of August, 1862, an order in council was issued, suspending the foreign enlistment act so far as to enable Captain Osborn and Mr. Lay to enter the service of the Emperor of China "to fit out, equip, purchase, and acquire ships or vessels of war for the use of the said Emperor, and to engage and enlist British subjects to enter the military and naval service of the said Emperor." This permission to remain in force until the 1st of September, 1864.

The license granted by this order in council was extended to "all military officers in her Majesty's service," by the order in council of the 9th of January, 1863, with a similar limitation to the 1st of September, 1864. (Hertault's Commercial Treaties, vol. xi, pp. 665-683.)

It will be observed that in all, or nearly all, the cases up to the time of the American civil war, the foreign enlistment act had been invoked to prevent the enlistment and dispatch of recruits and soldiers rather than the equipment of vessels.

The American civil war introduced a new series of cases, in which the foreign enlistment act was called into operation. These are so well known that it will be sufficient merely to name them in the order as they occurred:

"Creto," tried at Nassau; released August, 1862.

"Alexandra," tried in England.

This was the celebrated cause in which all the issues as to the meaning of the equipment clauses of the foreign enlistment act were raised. The vessel was acquitted, the four judges in the exchequer court being equally divided in opinion; the junior withdrew. The costs and damages were compromised by the government for £3,700, and the vessel sailed for Nassau. Here she was again seized, and remained under seizure until the end of the war.

The iron-clads *El Toussou* and *Mounassir*, at Liverpool, said to have been ordered for the Egyptian government. The ships were seized, but eventually purchased by government, and are now her Majesty's ships *Wivern* and *Scorpion*.

The *Canton*, or *Pampero*. This vessel was seized in the Clyde, and the builder allowed judgment to be taken against him. She remained under seizure until the close of the war, and has now become notorious under the name of the *Tornado*.

There were five prosecutions for enlisting men to serve in confederate vessels:

Mr. Rumball, the officer of Sheerness dock-yard, who took part in the equipment of the *Rappahannock*. He was acquitted February 4, 1865, although the case against him was a very strong one.

Messrs. Jones and Highat, for enlisting men for the confederate service. They were convicted and sentenced, November 23, 1864, to pay a fine of £50 each.

Campbell, enlisting for Georgia, pleaded guilty, and released on recognizance of £150 to appear when called upon.

Seymour, Cunningham, and Buchanan, convicted of enlisting for *Rappahannock*, and discharged on recognizances.

Captain Corbett, who commanded the vessel that took out the armament and crew to the *Shenandoah* at the Desertas off Funchal. A very strong case, but the evidence for the prosecution as to the actual enlistment of men broke down, and Captain Corbett was acquitted.

The cases of the *Alabama*, *Shenandoah*, and *Georgia* are fully explained in the Parliamentary Papers, of which copies have been furnished to the commissioners.

For an epitome of the representations addressed to her Majesty's government by Mr. Adams during the civil war, see the memorandum annexed to Lord Russell's letter to Mr. Adams of November 3, 1865, (Parl. Papers, North America, No. 1, 1866, p. 139.)

CHAS. S. A. ABBOTT.

* There is no record of the trial in the Foreign Office.

APPENDIX No. IV.

REPORTS FROM FOREIGN STATES, DECLARATIONS OF NEUTRALITY, ETC.

The accompanying circular was sent by the Foreign Office to her Majesty's representatives at the courts of the following countries: Austria, Belgium, Denmark, France, Italy, the Netherlands, Portugal, Prussia, Spain, Sweden, United States.

FOREIGN OFFICE, *February 14, 1867.*

The commission which has been appointed by the Queen to consider the neutrality laws of this country, being desirous of obtaining information respecting similar laws in other maritime countries, I have to instruct you to ascertain and report, with as little delay as possible, what laws, regulations or other means the governments to which you are accredited possess for preventing acts within their territories of which belligerents might complain as a violation of the duties of neutrality.

And the following papers were received in reply:

AUSTRIA.

(Received from her Majesty's embassy at Vienna.)

NOTE FROM THE MINISTER OF FOREIGN AFFAIRS TO HER MAJESTY'S AMBASSADOR.

Mr. Bonar, her Britannic Majesty's chargé d'affaires, was pleased to make inquiry of the imperial minister of foreign affairs as to what laws, regulations, or measures are laid down by the government of his imperial Majesty in order to prevent transactions in their territory of which belligerent powers might complain as being an infringement of the neutrality laws. After consulting the competent authorities, the minister of foreign affairs has now the honor to communicate to Lord Bloomfield, &c., &c., &c., with reference to the above question, as follows:

The declaration signed in Paris by the representatives of Austria, France, Great Britain, Prussia, Russia, Italy, and Turkey, on the 18th of April, 1856, concerning the rights of neutrals in naval warfare, has been published in legal course in Austria, and constitutes, therefore, a law generally in force.

Apart from the principles which lie at the foundation of this declaration, there exists, however, no law in Austria, nor any other order generally binding, which could be made to apply to violations of neutrality by Austrian subjects.

The imperial government have endeavored to supply this want in cases of war between other states, by promulgating in legal forms special regulations for the preservation of neutrality applicable only to the war in question. Thus in the year 1854, in consequence of the war then existing, the ministerial ordonnance of May 25, 1854, was promulgated, of which copy is inclosed herewith.

In such special declarations the generally acknowledged principles of international law, as well as the known views of the belligerent powers on certain points, have been taken into consideration, in order as much as possible to obviate any complaints of infringement of neutrality.

* There does not exist, however, a law of this kind applicable to all future occasions, and more particularly there are no general laws in Austria prohibiting the construction, equipment, or manning of ships (in Austrian harbors) which are destined for belligerent powers, or are suspected of being so.

The undersigned, &c., &c.,

MEYSENBUG.

VIENNA, *May 16, 1867.*

PUBLISHED ON THE 28TH OF MAY, 1854.

Decree of the ministries of the interior, of the exterior, of justice, and of trade, as well as of the commander-in-chief of the army of 25th May, 1854, by which are published the principles to be observed during the war that has broken out between England, France, and the Ottoman empire on the one side, and Russia on the other side, by the imperial authorities and subjects with reference to trade and navigation.

In consequence of the war which has broken out between England, France, and the Ottoman empire on the one side, and Russia on the other side, the following regulations are published with the consent of his Imperial Apostolic Majesty, given on the 23d May, 1854, according to which all imperial, civil, and military authorities, as well as all Austrian subjects, will have to regulate their conduct.

1. The acceptance or employment of lettres-de-marque under whatever form or flag, as well as every kind, share in the command, manning of, or fitting out of privateers, is prohibited to Austrian subjects. Whoever acts otherwise, has not only to expect no

protection on the part of the imperial government if he is subjected to punishment in other states, but he shall also be treated according to the existing laws for robbery, as the acceptance of lettres-de-marque is to be considered as an attempt at robbery.

2. Should foreign privateers, provided with lettres-de-marque from one of the belligerent powers, present themselves, the entrance into our harbors is to be refused, except in case of imminent danger from storms, and then their earliest possible departure must be insisted on.

3. It is forbidden to ships under Austrian colors to carry troops of the belligerent states, or to import into those countries commodities which, according to the law of nations or other universally known regulations, are considered as contraband of war.

Of such commodities an Austrian ship in intercourse with these states may only carry so much as is strictly necessary for its own use or defense.

Whoever infringes on this prohibition has no protection to expect from the Austrian government in case of legitimate seizure and confiscation on the part of the belligerent states, but will be punished besides.

4. Austrian ships are forbidden to enter into such places and harbors as are besieged by one of the belligerent powers, or blockaded by a sufficient force, as otherwise they would neither have to expect to enjoy the freedom of a neutral flag, nor assistance or interference on the part of the imperial government.

5. Except in this case, Austrian merchant ships are not hindered, in spite of the existing war, in carrying on their trade and intercourse with the harbors of the powers engaged in the war, and in like manner the merchant ships of the belligerent states may as before enter without hinderance into all Austrian harbors, remain as long as they please, get repairs, &c., &c., in so far as they observe the existing laws and regulations, and so long as their conduct is in accordance with the rules of neutrality.

With respect to the admission of foreign ships of war into Austrian harbors, the conditions of the decree of the ministry of war of the 29th of January, 1850, remain in force.

6. On the expectation that the neutral Austrian trade will be properly respected by the belligerent powers, and that the customary privileges of belligerents will be exercised with a proper observance of the laws of nations or of any modifications of them consonant with treaties, it is herewith decreed that Austrian navigators shall not oppose themselves to visitation on the open sea on the part of foreign ships of war, but on the contrary shall, without difficulty, show the papers and documents by which their neutral capacity is proved, throw none of them into the sea, or otherwise destroy them, nor keep on board false or duplicate and secret papers.

The belligerent powers have besides officially expressed the satisfactory declaration that the property of the enemy in neutral ships, and neutral property in the enemy's ships, with the exception of contraband of war and the enemy's dispatches, shall be respected and not taken.

7. The captures which the belligerent powers make from the enemy may only be admitted into the harbor of Trieste, (with exception of every other Austrian harbor,) where the effects may be disembarked, deposited, administered, (in case they do not contain goods the import of which into the imperial states is forbidden,) bought, or sold, or be exported anew in the course of trade, but all under the condition that the judicial decision shall have been given by the competent authority of the power which has taken the prize as to their legitimacy. Should some goods be exposed in the mean time to injury, these may be sold beforehand, but only on sufficient security for their value being given, in case the decision should declare the liberation of the ship.

8. Should an Austrian ship, in spite of its obedience to the above regulations, be treated in an improper manner, information is to be given without delay to the nearest Austrian consular or other imperial authority, in order that the imperial government may take steps to obtain compensation and satisfaction from the foreign state, and when steps have already been taken by the injured party to support them.

9. These regulations will be put in force from the day of their publication.

BELGIUM.

(Received from her Majesty's legation at Brussels.)

[Translation.]

1. ARTICLE 14, SECTION IX, OF THE NAVY REGULATIONS FOR 1861.

No vessel taken by captains who have a foreign commission can remain more than twenty-four hours in our ports and harbors, unless compelled by storms, (or unless the prize is from our enemies.)

2. ARTICLE 84 OF THE PENAL CODE.

Whoever exposes the state to a declaration of war, by hostile acts not approved by the government, shall be punished by banishment, and, if war ensues, by deportation.

3. ARTICLE 85 OF THE PENAL CODE.

Whoever exposes Belgians to reprisals through acts not approved by the government, shall suffer banishment.

4. THE CRIMEAN WAR DECLARATION, OF THE 25TH OF APRIL, 1854.

Merchants are notified that instructions have been issued to the judicial, naval, and army officials, to let them know that privateers of any flag, or with any letters-of-marque, or any commission, shall not enter our ports with prizes, except in stress of weather; and the officials are instructed to keep watch over them, and to send them to sea as soon as possible. They are also charged not to acknowledge any commission or letter-of-marque from the belligerents without the King's permission.

Every person subject to the laws of the kingdom who arms privateers, or takes any part in such act, is liable to be treated abroad as pirates, and are amenable to the laws of Belgium.

5. THE ITALIAN WAR DECLARATION OF THE 8TH OF MAY, 1859.

Belgium adheres to the principles laid down in the declaration of the Paris Congress of the 16th of April, 1856.

Merchants are notified that instructions on this subject have been issued to the judicial, naval, and army officials.

Every person subject to the laws of the kingdom who arms privateers or takes part in such act, or who violates neutrality, is liable to be treated as a pirate abroad, and to be prosecuted at home.

6. The American war declaration of the 22d June, 1861, was similar to that of 1859.

7. The Brazil-Paraguay war declaration of the 11th June, 1865, is the same.

8. The Spanish-Chili-Peru declarations of the 18th February, 1866, and the 14th March, 1866, are similar to the above.

DENMARK.

COPENHAGEN, April 30, 1867.

MY LORD: In pursuance of the instructions contained in your lordship's circular dispatch of the 14th of February, addressed to Sir Charles Murray, I have the honor to transmit herewith to your lordship copy of a note that has been addressed to me by Count Frys Frysenborg, transmitting copies of the Danish laws and regulations in vigor for the prevention of acts within Danish territories of which belligerents might complain as a violation of the duties of neutrality.

Inclosure No. 2 to this dispatch is a set of laws with translation, dated May 4, 1803, for the guidance of merchants and shipmasters in time of war between maritime powers. In the 13th article are enumerated the goods that are to be considered as contraband of war.

Very important special regulations are laid down in article 14, with a view to controlling the shipment of articles contraband of war, and to insuring their due delivery at neutral ports.

According to the 18th article, Danish owners and masters of merchant vessels who infringe the law not only forfeit their right to Danish citizenship and the protection of their government in case of seizure by the enemy, but likewise expose themselves to prosecution by the tribunals of their country.

Various articles of the law of May 4, 1803, will be annulled by the provisions of a new law bearing date March 13, 1867, (copy of which, together with a translation, was transmitted to your lordship's office by Mr. Consul Bridges Taylor, in his dispatch of the 27th instant,) and which is to come into force in the month of October of the present year.

In it are defined the character of the ship's papers which all Danish merchant ships will in future be required to possess in order to prove their nationality.

They will consist of a certificate of registry, the articles of agreement, custom-house clearance, charter-party, and bills of lading.

The ancient Latin passports are abolished.

By a set of regulations embodied in an ancient circular of the Royal Danish Chancellerie, dated May 20, 1823, (inclosure No. 4 in this dispatch, with translation,) priva-

ters are forbidden to enter Danish ports, except on account of stress of weather or pursuit by an enemy. They are bound, however, to quit their place of refuge so soon as the danger be past.

An injunction is likewise laid on foreign vessels of war, as well as privateers, from sending their prizes to or selling them or their cargoes in Danish ports, and Danish subjects are strictly forbidden to purchase any prize brought into Danish ports.

The sixth inclosure to this dispatch is a copy of circular, together with translation, which was addressed, during the Crimean war, to the commanders of vessels stationed in Danish waters, and points out the course they were directed to pursue in order to maintain the neutrality of Danish territory, and to prevent the commission of any act that might give umbrage to either of the belligerents at that time engaged in hostilities.

I have likewise the honor to inclose herewith to your lordship copy of the 76th article of the Danish Penal Code of February 10, 1866, fixing the penalties to be inflicted on persons who, without royal authorization, should enlist soldiers in Denmark to serve in a foreign war.

I have the honor to be, with the highest respect, my lord, your lordship's most obedient, humble servant,

FRANCIS CLARE FORD.

The Lord STANLEY, P. M., &c., &c., &c.

[Translation.]

COPENHAGEN, April 26, 1867.

SIR: After consulting the proper ministers about Sir Charles Murray's note of the 19th of February last in regard to the provisions of the law intended to prevent violations of neutrality toward foreign belligerent nations on Danish soil, I inclose to you—1. One copy of the ordinance of the 4th of May, 1803, containing instructions to captains and owners of vessels in regard to their conduct during a naval war in which Denmark takes no part. 2. The copy of a circular from the royal Danish cabinet dated 20th May, 1823, specifying the conditions under which foreign war vessels and privateers of belligerent nations may enter Danish ports during a war in which Denmark is not interested. 3. A circular addressed to commanders of the royal navy in Danish waters during the Crimean war, prescribing neutrality according to laws in force, and prohibiting act offensive to either belligerent power. 4. A French translation of article 76 of the penal code of 10th of February, 1866, specifying penalties incurred by persons recruiting soldiers on Danish soil, for the military service of a foreign power, without the King's consent.

In calling your attention to these ordinances and circulars, I deem it my duty to give you a brief analysis of the provisions of the ordinance of 4th May, 1803.

The articles from 1 to 13 contain forms of the papers necessary to prove the nationality of a Danish trading vessel in a naval war between foreign powers. In reference to these provisions I must inform you that as Latin passports are no longer required on trading vessels, in accordance with existing treaties between Denmark and Great Britain, (see Lord Russell's note of 29th June, 1861, to our minister in London,) the government has repealed the ordinance of 4th May, 1803, in relation to such passports; and, by a new law of the 13th March past, many other articles have been rescinded or modified. Article 2 of the said law only requires, as proof of the nationality of a trading vessel, the paper called "a certificate of nationality or registry," showing that the ship is on the list of those vessels having a right to carry the Danish flag. According to the same article, every registered vessel is only required to carry a crew-list, the cargo papers, and a custom-house clearance, in times of war or peace.

To prevent a misuse of the Danish flag in covering articles contraband of war, intended for belligerent powers or their subjects, article 13 of the ordinance of 4th May, 1803, gives a list of articles considered as contraband.

Article 14 forbids captains of trading vessels to carry those articles unless he gives security that they are to be delivered at a neutral port. In such case, the master and freighters are obliged to observe certain formalities to prove that the goods were actually delivered at the neutral port.

Article 15 commands masters of trading vessels to observe the royal proclamations in relation to a blockaded port of either belligerent power. If masters are ignorant of such blockade, and near the blockaded port, they are required by this same article to heed a notice given by the blockading squadron at the port.

By article 18 of the same ordinance, freighters and masters who violate this law forfeit the protection of the government and make themselves liable to prosecution in the courts.

Hoping these remarks may prove satisfactory in answer to your questions, I take the opportunity to express my esteem and consideration.

FRYS FRYSENBORG.

To MR. FÖRD,

Her Britannic Majesty's Chargé d'Affaires.

RULES FOR THE GUIDANCE OF MERCHANTS AND SHIPMASTERS IN TIME OF HOSTILITIES
BETWEEN MARITIME POWERS.

We, Christian VII, by grace of God, King of Denmark and Norway, the Goths and Vandals, Duke of Sleswig Holstein, Stormarn, Ditmarch, and Oldenburg:

Make known—Although we, by several previous resolutions, fixed the rules according to which our traders and seafaring subjects should be guided when war broke out between foreign maritime powers, we have, nevertheless, found it necessary under the present circumstances to make one condensed enactment, embodying those parts of these former resolutions, that they may hereafter serve as a rule of guidance for these our subjects, and become publicly known; and also so that no Danish subject shall plead ignorance of his duties in these respects, it is our gracious will that the following enactments hereafter shall alone be followed and accurately conformed to by all and every one who wishes to share in the advantages which our neutral flag in time of war will give to their lawful trading and maritime speculations; and to this end we hereby annul and declare void all our former enactments. We order and command as follows:

ARTICLE I. Those our trading and seafaring subjects who wish to send any of their ships to sea to any foreign places to which the effects of the war have or may reach, shall be bound (always in conformity with the rules and regulations laid down in the following law) to acquire a royal Latin sea-pass or permit, as well as the other ship's documents and papers exacted by law. To this end, on the breaking out of hostilities between foreign powers, it will be necessary to decide and make known for what places it is considered necessary that ships should be provided with our Latin sea-pass.

ART. II. The pass cannot be obtained before the owner of the ship for which it is required has provided himself with the necessary ship's certificate in proof of his lawful right of ownership.

ART. III. No man can obtain a ship's certificate who is not our subject either by birth in our kingdoms and countries, or who, before the breaking out of hostilities between any of the maritime powers of Europe, was in full possession of the rights of citizenship, either in our or other neutral states. In all cases the owner of a ship for which a certificate is demanded shall be domiciled in some place in our kingdoms and countries.

ART. IV. He who, according to the foregoing articles, is entitled to obtain or claim a ship's certificate, shall, in order to receive the same, present himself to the magistrate or authorities of the city or place to which the ship belongs, or where the principal number of its owners are domiciled, where either they, or at least the chief owner, has, in person or by means of a written and signed oath, declared that the ship belongs to him, or to one or more of our subjects, and that the ship for which the certificate is demanded has no contraband of war on board destined for the use of the belligerent powers or their subjects.

ART. V. No one, on the breaking out of hostilities, shall be permitted to command a ship provided with our royal sea-pass who may have been born in any of the countries of the belligerent powers, unless he, before the breaking out of hostilities, shall have acquired rights of citizenship in our kingdoms and countries.

ART. VI. Every ship-master who will command a ship furnished with our royal Latin sea-pass must have acquired citizenship at some place in our kingdoms and countries.

He is bound constantly to have his letter of citizenship with him on board. As a security that he undertakes nothing that may be in contradiction with the provisions of this our enactment, he shall be bound, before departure from the harbor where he receives the pass, to take an oath that nothing with his will shall be undertaken whereby the pass and certificate given to him shall be misapplied.

Such oath made by the master shall accompany the owner's application for the delivery of the permit. But when, on account of the absence of the ship's master, this cannot be accomplished, the owner shall state the fact, and then our consul or commercial agent in the district where the master happens to be shall be answerable that when the master receives the permit he shall take the required oath.

ART. VII. On ships which are to be furnished with the royal Latin sea-pass no super-cargo, factors, clerks, or other ship's officials who are subjects of the belligerents shall be permitted on board.

ART. VIII. Half the crew, including the mate, shall consist of the subjects of our kingdoms and countries. Should it happen that a crew in a foreign country, through desertion, death, or sickness, become incomplete, so that it is impossible for the master to comply with this enactment, he shall be permitted to engage as many foreigners (especially subjects of neutrals) as may be required to continue the voyage; however, in no case shall the number of subjects of the belligerents who may be on board the ship exceed a third part of the crew.

Every change connected with such alterations in the crew, together with the reasons calling for them, shall be carefully entered by the captain on the ship's articles, which shall be attested each time and signed by our consul or commercial agent, or their

deputies resident in the ports the ship may put into, and such indorsement shall serve as a justification for the master in all subsequent contingencies.

ART. IX. Besides the ship's certificate mentioned in article II, the following ship's documents shall always be found on board the ship:

The ship-builder's certificate, and, inasmuch as he who built the ship may later have sold it to another, then also the bill of sale or title-deed shall be present.

The documents, on application for the delivery of the pass, shall be sent by the owner to the proper authorities, accompanied by the certificate, in proof of the ship's lawful right to claim the certificate.

The royal Latin sea-pass, with the accompanying translation.

Measure bill, or certificate of measurement.

Articles of agreement and list of the crew, which must be properly attested by the competent authorities.

Charter parties and bills of lading of the cargo; and, lastly,

Custom-house clearance from the place where the cargo was taken in.

ART. X. The measure bill shall be delivered by the authorities of our kingdoms and countries properly authorized to measure ships. In case any of our subjects purchase a ship in a foreign port, our consul or commercial agent at the place shall be authorized to have the ship measured, and thereafter deliver to the master of the ship a provisional measure bill, which shall be considered valid until the ship arrives in one of our harbors, where the ship can be properly measured and branded, and a permanent measure bill be made out, which shall remain with the ship.

ART. XI. It is forbidden to all and every one, owners as well as shipmasters, to procure for themselves and to have on board duplicate ship's papers, or to carry a foreign flag, as long as they are sailing with papers and documents graciously given by us.

ART. XII. Our royal Latin sea-pass is only valid for one journey, i. e., from the time the ship after receiving it quits its home port and until the time it returns to it; unless the ship in the mean time, by lawful sale, has been transferred to another party, in which case the new owner must obtain the necessary passes and documents in his own name.

ART. XIII. According to ordinary received principles, the subjects of neutral powers cannot be permitted to have goods on board which can be considered as contraband of war when they are destined for the belligerent powers, or their subjects, or already belong to them; so have we, the King, in order to prevent our flag being misused to cover or protect such carrying of contraband articles, and in order that no one in this respect shall excuse himself on the ground of ignorance, hereby and expressly decided what should be classed under the denomination of contraband of war. Hereafter the following articles and goods of all and every one our subjects shall be considered as contraband of war: cannons, mortars, all kinds of weapons, pistols, bombs, grenades, cannon balls, and bullet guns, flint stones, fuses and tinder, gunpowder, saltpetre, sulphur, cutlasses, pikes, swords, fittings, cartouche boxes, saddles, and bridles; however, with the exception of such quantities of these articles as may be requisite for the protection of the ship or of its crew.

Besides, one must in every respect conform to all special stipulations or positive contracts which we, the King, have agreed to with foreign powers in relation to the carrying of prohibited goods and properties in our subjects' ships, in which case the owner on receiving the pass will be furnished with special instructions for his guidance.

ART. XIV. Should a ship bound for a foreign port take in such goods, which, if they were destined for any of the harbors or ports of the belligerent powers, would be considered as contraband of war, in addition to the oath which the owner and shipmaster would have to take before the proper magistrate or authority, the persons who load such ships and the master shall also be bound, in conformity with the invoice of the cargo or bills of lading, to draw up, besides the ordinarily required custom clearance, a special declaration which shall contain a classification of the merchandise in question, with their qualities of value, which declaration, signed by the shipper and master, shall be certified by the custom-house authorities at the place where the clearance is given. The declaration thus attested shall, without delay, after the clearance of the ship, be sent by our custom officials to the chief commissioners of customs, and shall serve to control the correct arrival of the specified goods at their specified destination, provided they have not been lost by accident at sea or by capture. The control shall be carried out in the following manner: The shipper of the goods in question shall procure a certificate from our consul or commercial agent at the place to which the ship is bound, or, when we have no consul or commercial agent there, a certificate from the lawfully authorized local authorities, certifying the due arrival and discharge of the merchandise in conformity with the declaration. This certificate shall be procured and sent in to the home office as soon as the ship arrives at its destination or reaches some home port. Should the certificate not be forthcoming in a reasonable time proportionate to the length of the journey, our home office shall demand a declaration from the shipper to the effect that he declares on oath that he has received no information about the goods or the ship. Should the arrival of the ship and the discharge of the goods in question in

a neutral port not be clearly proved, and no accident or violent capture have taken place to prevent the arrival and discharge, the shipper shall pay to the treasury a fine of twenty rix dollars for every commercial last of the ship's burden; besides both owner and master shall be liable to an action at law.

ART. XV. No shipmaster shall sail to any port blockaded from the sea-side by one of the belligerent powers, and he shall in every respect carefully pay attention and conform to the warnings communicated to him by the authorities relative to the blockade of ports. In case he, on sailing into any port, (the blockade of which has not previously been brought to his knowledge,) meets any ship carrying a flag of war of any of the belligerent powers, and it is notified to him by the commanders that the port is really blockaded, he shall immediately retire from it without in any way seeking clandestinely to break the blockade.

ART. XVI. None of our subjects shall take service on board privateers, much less themselves arm or be interested in the arming of such ships; neither shall any owner or shipmaster allow his ship to be used for the transport of troops, weapons, or contraband of war, of whatsoever description. Should any shipmaster be unable to prevent his ship (through irresistible force) being misused as above mentioned, it shall, notwithstanding, be his duty to protest, and with all his power and by a formal act, against such violent proceeding which he has been unable to obviate.

ART. XVII. When a merchantman, not sailing under convoy, is spoken with at sea by any armed vessel belonging to the belligerent powers who have the right of visitation, the shipmaster shall not oppose such visitation, if effected by the commander of such above-mentioned armed ship, but is bound, on the contrary, faithfully and without reserve to show all the documents appertaining to ship and cargo. Both the shipmaster, his officers and crew, are strictly forbidden to throw overboard, or in any other way to destroy or conceal, any documents or papers on board belonging to the ship or cargo, either before the visitation or while it takes place. When the protection of our flag of war is granted to merchandise, every shipmaster, before he is taken under convoy, shall exhibit his ship's papers to the chief of the convoy, and in every case most carefully conform to his orders.

ART. XVIII. Should any one, be he owner or master, act in contravention to these enactments, he shall lose his citizenship, and the right to own or command ships; moreover, he shall be prosecuted according to law, and, according to circumstances, be punished either for perjury or for having infringed our royal mandates. On the other hand, we will cause to be respected and protect the lawful enterprises by land and sea of our faithful subjects, so long as they conform to the foregoing rules and regulations, to which end we have enjoined and ordered all our ministers and consuls, and other authorities in foreign parts, to endeavor to their utmost to ward off and prevent any inconvenience or violence being suffered by our subjects, and in case such should have occurred, then to aid the injured parties and endeavor to assist them to obtain justice and compensation. Likewise we, the King, will at all times graciously give our support to every just complaint which our subjects in the above respects may feel themselves called upon to lay before us.

Given at our royal palace at Copenhagen, May 4, 1803, under our royal hand and seal.

CHRISTIAN R.

ROYAL DANISH CHANCELLERIE'S RESOLUTIONS OF MAY 20, 1823.

The royal department of foreign affairs has announced to this chancery that, under date of the 30th of last month, it has pleased his Majesty the King graciously to resolve that it shall not be allowed to any privateer, of whatever nation, to remain in any Danish harbors or waters.

Only in case that such privateers, forced by pressing danger of storms, bad weather, or that pursuit by the enemy occasion dangers, seek refuge in a Danish port, then they shall be received and receive such help as humanity may dictate; but they shall be bound, immediately the danger is over, to put to sea again. Neither shall any privateer be permitted to send his prizes to Denmark, or to sell them there; and in the last-mentioned case, when privateers, forced by necessity, seek refuge in Danish ports, they shall neither unload nor load prizes they may bring with them, neither shall they sell these or their cargoes or any part of them in Danish harbors.

To this end it shall by public notice be stringently forbidden to all his Majesty's subjects to buy foreign privateers' prizes. When foreign men-of-war run into Danish harbors they may be obliged to bring the prizes they may have taken with them, and shall neither unload nor load them, or sell them wholly or partly, them or their cargoes.

In communicating this royal resolution, we will beg you kindly to communicate its contents to all the officials within your jurisdiction, that they may take cognizance of the same, and make known to all and every one that they are stringently forbidden to purchase prizes brought in by foreign privateers.

Certified by the expediting secretary in the ministry of justice, March 26, 1867.

INSTRUCTIONS FOR THE GUIDANCE OF COMMANDERS OF DANISH SHIPS OF WAR DURING THE CRIMEAN WAR.

1. At the station at which you are placed it is your duty, with the ship under your command, in the best manner to preserve good order on the coast and in the roads and harbors, to take measures that trade and navigation is carried on in its usual uninterrupted manner, without suffering molestations from the men-of-war who may be on the spot.

It is desirable that foreign men-of-war should always find Danish men-of-war in their neighborhood, whenever they appear in our waters, and you will therefore, as soon as you ascertain that foreign ships of war are in the waters of your station, approach them and follow their movements. The ship under your command should properly be considered as a guard-ship in the station, for which reason you will also, when at anchor, fire off watch signals, &c.

2. You must show foreign men-of-war, of whatever nation they may be, with which you may come in contact, all possible attention and politeness, but you must abstain in every manner from giving them assistance, except such as humanity may call for; especially you must not assist them in their navigation, by procuring for them local pilots or by other nautical assistance.

3. In case where foreign men-of-war have communicated with land, you will give over the keeping of order on shore to the proper police authorities or harbor officials; but you shall in word and deed render assistance everywhere where it may be required, and where conflicts may arise either by reason of misunderstandings, want of knowledge of the language on the part of the one side or the other, or on account of possibly exaggerated claims on the part of the foreign ships. You shall in these cases come forward as mediator to clear up matters, and indeed act as a reconciliator, but be at the same time decided and serious everywhere where the question is to keep up or make good the right of the King's subjects and the neutrality of the Danish territory.

4. The Danish territory extends one Danish mile from the *terra firma* of the King's country, (see the circular from the ministry of August 18, 1-10;) excepted herefrom, however, is the sound at Kronborg and the Elbe at Glückstadt, where Danish territory only stretches a cannon shot from land, or 300,000 ells. Danish mile = 5 English miles.

5. It is the will of his Majesty the King that the ships of all nations shall be under the protection of Denmark when in Danish territory and within its territorial limits, within which the Danish neutral rights must be maintained, so that the bringing up or visiting of ships, be they belligerent, neutral, or national, shall not be permitted within these territorial limits.

6. The bringing of prizes into Danish ports is forbidden. When prizes are anchored in open roads or off the coast of the Danish territory, it must be supposed that this occurs only from the force of circumstances; but you shall then request the bringer up or prize-master to take away the prize as soon as possible, and you must watch with care that nothing is sold or brought on shore or landed from the prize while it remains in Danish waters or territories.

The necessary warning in this respect shall be given in these cases as soon as possible to the proper authorities on shore.

7. If a ship of war or merchantman flying before an enemy seeks refuge in Danish territory, it is your duty to take it under your protection. It is to be hoped that a warning to the pursuing man-of-war (preferably by sending a boat with an officer on board, or, if necessary, by a warning signal) will be sufficient to ward off such a breach of neutrality; but should, contrary to expectation, a seizure or bringing up take place in Danish territory, you have then only, by a protest framed in a decided but serious and polite tone, to make known to the commander of the foreign man-of-war that he has committed a breach of Danish neutrality and territorial rights.

You will thereupon, as soon as possible, report to your government what has taken place, and send a copy of the protest, together with a statement of the name of the ship and its commander, &c., &c.

8. When foreign ships of war wish to run into harbors within the limits of your station, you will watch that the ship conforms to the rules of the harbor, both as regards the local or general regulations, such, for instance, as discharging of gunpowder, putting out fires, &c., &c.

9. Privateers shall not be suffered within Danish territories, and still less shall they be permitted to run into any Danish harbor except in case of distress. It must then be stringently looked to that they deliver up gunpowder and weapons, and in every case conform to the police regulations of the harbor. Their stay in harbor shall not be suffered longer than absolutely necessary for their repairs.

If privateers should bring prizes into Danish territory they shall be immediately sent back.

Privateers on refusing to comply with these orders in Danish territory, necessary:

force shall be applied to enforce compliance; but you must, before you have recourse to force, carefully convince yourself that the vessel in question is really a privateer and not a man-of-war, and if you consider it necessary you may, for this purpose, demand to see the commander's commission or patent.

10. Outside of the Danish territory the sea must be considered as open water, on which account you will look upon every act of belligerent ships taking place outside of our territories as not concerning you.

Should, however, foreign men-of-war, in open waters, but within sight of you, over-haul Danish merchantmen, you must try and obtain permission for such vessels to proceed on their course, but in these cases you can only come forward as a mediator. If the foreign inspecting man-of-war declares it to be his duty to bring up such vessels, and that this takes place on account of the ship being loaded with contraband of war bound for one of the belligerent's harbors, you cannot oppose it, but can only, as soon as possible, report the case to the proper government department. Should, contrary to expectation, a foreign man-of-war in your vicinity attempt to molest a Danish merchantman, for instance, by taking his crew, merchandise, provisions, or ship's space, or by attempting forcibly to take possession of the ship for his own purposes, such as the transport of sick or of booty, you must declare that, as you consider yourself bound to protect your countrymen's liberty and right to unhindered sailing on the sea, (a right which can only be limited by those general hindrances applying to all nations' ships in time of war,) it is your duty, on behalf of Danish vessels, seriously and earnestly to protest against every act which exceeds these limits.

Should this remonstrance not be attended to, you will at once make a formal protest against the proceedings of such foreign man-of-war, in which protest you will, besides giving notice that you consider that his mode of procedure is unauthorized, and a breach of Denmark's recognized neutrality, hold him responsible for the consequences of such an act. In every case the master or owner of the merchantman shall receive full compensation and indemnity for the loss of property or time occasioned thereby. You will protect Danish trade everywhere, and in every case against privateers, and, if necessary, use force.

The object of these present instructions is to give you decided rules for your guidance in certain cases; but the department has likewise hereby intended to give you a clew for action in all possible unforeseen contingencies, in which it will be your duty to act with tact and care, together with gravity and decision. As a rule for such unforeseen cases, the department advise you the strictest neutrality, by abstaining from any sign of partiality for either the one or the other belligerent, be it either by word or deed. You must take care to have respected the Danish neutrality rights and the keeping of good order within the territories, showing every external sign of politeness and consideration in conformity with what the usages of ships of war require or call for.

TRANSLATION OF SECTION 76 OF THE PENAL CODE OF THE 10TH FEBRUARY, 1866.

Whoever recruits men for foreign service, without the King's permission, while the country is at war, shall suffer the punishment of hard labor six years or less; if in time of peace, the penalty shall be two months' imprisonment, or two years of hard labor.

Any subject who enlists in time of war, without royal permission, in the service of a foreign power not at war with Denmark, is liable to imprisonment or hard labor for one year or less, according to the nature of the case.

The act of recruiting is consummated by the person's accepting foreign service.

FRANCE.—No. I.

[Received from her Majesty's embassy at Paris.]

REPORT FROM MR. TREITT, COUNSEL TO THE EMBASSY.

[Translation.]

PARIS, February 20, 1867.

MR. MINISTER: In your letter of the 16th February, 1867, you asked about the laws, regulations, and other means used by the French government to prevent violations of neutrality by its subjects, on French territory.

Articles 84 and 85 of the penal code are the only regulations on the subject. They are as follows:

"ARTICLE 84. Whoever exposes the state to a declaration of war, by hostile acts not approved by the government, shall be punished by banishment, and, if war ensues, by deportation.

"ART. 85. Whoever exposes Frenchmen to reprisals, through acts not approved by the government, shall suffer banishment."

You will observe the generality of the expressions *whoever* and *hostile acts*; the words are not defined; their interpretation is left to courts of justice.

Articles 84 and 85 of the penal code do not refer to machinations and maneuvers for the benefit of a foreign power, with the intention to provoke hostilities. Such machinations, practiced with a criminal intention and purpose, come within the province of treason, and are to be corrected by articles 76 to 83 of the same code. Articles 84 and 85 apply only to cases of imprudence, rashness, or negligence; it is less the intention than the material fact that is punished. The law looks only to the result; thus: "Was France exposed to a declaration of war, and was war declared? Were Frenchmen exposed to reprisals?" The affirmative of these questions calls for the severest penalty of the law, as well as the payment of damages claimed.

Even death was proposed as a penalty in severe cases; but legislators agreed that transportation would be severe enough to restrain subjects from violation of neutrality toward belligerents. (See report of State Council, 9th January, 1810.)

In the application of articles 84 and 85 of the penal code three conditions are required: 1st. The act must be hostile; 2d. It must be without the consent of the government; 3d. France must have been exposed to a declaration of war, or Frenchmen exposed to reprisals.

I merely mention these three circumstances which are to be decided by courts of justice. If the judges decide that a certain act is not hostile, and does not violate neutrality, the government must respect that decision, and make it known to the complaining belligerent. If the accused alleges a tacit or express approbation of the government, he cannot be punished for his act.

In fine, if the hostile act does not cause reprisals or war, it is not considered criminal.

These articles relieve government greatly from the responsibility towards belligerents; but they serve, as an illustrious judge has said, to protect the morality and dignity of the nation.

In ancient times the guilty, or even the suspected, were given up to the vengeance of the complaining party; this is not done now, yet the complaints are satisfied. Such is the principle of articles 84 and 85; for without them satisfaction could not be easily given, and war would be inevitable, as a final argument.

There are but three noted prosecutions in court reports, under articles 84 and 85 of the penal code:

In 1824 a French captain, commanding a Colombian vessel, captured a Sardinian ship and exposed Frenchmen to reprisals.

In 1831 border residents attacked a Sardinian custom-house.

In 1834 some bankers effected a loan and furnished munitions of war to Don Carlos, who was fighting against the Spanish government.

We must not be surprised at the scarcity of these cases, for acts in violation of neutrality generally consist in the delivery of war implements and munitions. Now, as arms and munitions are not articles of trade in France, and are carefully watched by the government, it is hard to arm vessels or trade in munitions of war without the knowledge or consent of the government.

Articles 84 and 85 are the only laws against violations of neutrality that I can find in French legislation. I have examined the laws on maritime prizes, piracy, and the slave trade, and have found nothing else in relation to violation of neutrality. We must not confound this question with general rules in France, and with the law of nations on neutrality.

It has been rightly said that a serious hostile act may not bring on war between two countries at peace, when often a simple act may cause difficulties, if the two nations have hostile feelings towards each other.

The result of penal suits, therefore, must fix the meaning of articles 84 and 85, contrary to the received opinions that the intention makes the crime.

Other nations have like provisions in their penal laws: article 136 of the Prussian code punishes subjects who expose their fellows to reprisals; and article 37 of the Brazilian code punishes, with imprisonment of one to twelve years, whomsoever endangers the peace of the country and exposes Brazilians to reprisals. Treason there, as in France, meets the severest penalty.

Yours, &c.,

TREITT.

Hon. JULIAN FANE,
Her Britannic Majesty's Minister at Paris.

[Translation.]

MR. MINISTER: In compliance with the request in your letter of yesterday, I send you the laws of the French government on neutrality, enacted the 10th of June, 1861.

I did not give them in my letter of the 20th February, because at that time no law, except the marine ordinance of 1861, related to neutrality, and I had to be brief to be intelligible. Those are the reasons why I only cited articles 84 and 85 of the penal code,

that include all cases of violation of neutrality. Neither did I mention the declaration of neutrality of the 10th June, 1861, because it was officially announced to your government.

The facts about the *Olinde*, the *Rappahannock*, and other southern privateers, have come to light in Lord Cowper's correspondence; they were noticed in the public papers, and I supposed them well known in the Foreign Office.

I will hunt up the history of the privateers that are charged to France, whether they were finished, were in course of construction, or had gone out to cruise.

I will let you know as soon as I find out about them; I must say to you, however, that they made no noise, and are now nearly forgotten.

The neutral declaration of the 10th June, 1861, allows privateers to remain twenty-four hours in French ports. Several powers declared, during the Crimean war in 1854, that no belligerent privateers would be admitted into their ports, unless in cases of absolute necessity.*

That shows the progress of civilization till privateering is totally abolished.

Yours, &c.,

TREITT.

Hon. JULIAN FANE, *British Minister*.

FRANCE.—No. II.

[Received from her Majesty's embassy at Paris.]

[Translation.]

MR. DE MOUSTIER, MINISTER OF FOREIGN AFFAIRS, TO MR. FANE.

PARIS, February 26, 1867.

SIR: In your letter of the 16th instant, you ask for the French laws and regulations about acts that might be regarded as violations of neutrality by belligerents, for the instruction of the Queen's commission, appointed to collect information on the subject.

Properly speaking, there is no French law or regulation defining neutrality between foreign belligerent powers; questions of that nature being mixed, are to be determined by the general principles of international law. Articles 84 and 85 of the penal code punish individual acts that provoke a declaration of war, or expose Frenchmen to reprisals; and article 21 of the Code Napoleon forbids Frenchmen from taking foreign service without permission.

We may quote article 3 of the law of the 10th of April, 1825, which treats as a pirate every Frenchman who accepts a commission as commander of a privateer from a foreign power.

We also cite article 67 of the commercial regulations of the 24th March, 1852, interdicting all French seamen from accepting foreign service, without permission; and certain paragraphs of articles 313, 314, and 315 of the code of military justice for the navy, about desertion abroad.

The ordinance of the 12th July, 1847, and the law of the 14th July, 1860, about war materials, is pertinent; and article 2 of the law of the 16th May, 1863, prohibiting the export of such articles.

I inclose you the texts of these laws.

Yours, &c.,

MOUSTIER.

MR. JULIAN FANE.

NO. 13715.—ROYAL ORDINANCE IN RELATION TO THE MANUFACTURE OF ARMS AND AMMUNITION FOR TRADING VESSELS.

NEUILLY, July 12, 1847.

Louis Philippe, King of the French, to all present and to come, greeting:

In view of the laws of the 22d August, 1791; 4 Germinal, year II; 19 Thermidor, year IV; 24th May, 1834, and 6th May, 1841; on the report of our minister of marine and colonies, and our state council consulted, we have decreed, and do decree, as follows:

ARTICLE 1. According to article 3 of the law of the 24th May, 1834, every person who desires to make fire-arms for trading ships must get permission from our minister of war for light arms, and from our minister of marine and colonies for cannon and ammunition. The petition must specify the quantity, kind, and caliber of the arms, and the

* Ordinance of the senate of Hamburg, April 26, 1834; ordinance of the senate of Lubeck, April 28, 1834; of Lubeck of the same date; government of Oldenburg, April 20, 1834; the King of Sweden, April 8 Denmark, April 20; Mecklenburg, April 26; Hanover, May 5; the two Sicilies, May 17; Tuscany, June 3 Belgium, April 25; Sandwich Islands, July 17, 1834.

kind of ammunition to be made. Masters of foundries shall annex the drawings of the cannon they propose to cast, a model of the mold, and a sample of the material, to their petition.

ART. 2. After permission is obtained notice of it shall be given to the prefect of the department where the foundry or workshop is situated, in which the arms are to be made.

ART. 3. Arms and munitions of war intended for trading vessels shall not go out of the shop, nor be exported, without a permit from the prefect of the department; and carriers shall show this permit when required to do so.

ART. 4. On the arrival of such arms at their port of destination, they shall be stored in a public warehouse, in charge of a proper officer.

ART. 5. Before sold they shall be tested, according to instructions from the secretary of war, or secretary of the navy and colonies, according to the kind of arm.

ART. 6. The officer testing them shall decide whether they are to be accepted or not. If rejected, a certificate to that effect shall be given to the maker, who may appeal to the minister for a final decision.

ART. 7. The makers shall pay all cost in these proceedings. The expenses of artillery officers who make the test shall be paid by the government.

ART. 8. No arm shall be taken from the storehouse except by a permit from a naval officer; and the maker or his agent shall state the names of the freighters of the vessels that are to take them. A copy of this permit shall be sent by the officer to the collector of the port where the vessels are loaded.

ART. 9. Cartridges and other munitions of war shall be stored as mentioned in article 4, and must be put on board when the vessel is ready to start, under conditions to be mentioned hereafter.

ART. 10. An officer of the navy at the freighting port shall issue the permit to load trading vessels with arms; and the permit shall specify the quantity of arms and the probable length of the voyage.

ART. 11. The presiding officer shall see that the arms are not too many for the size of the vessel and number of the crew, and shall see that the cannons be mounted.

ART. 12. The freighters shall sign a bond before the collector of the port, to give a true account of arms and munitions that pass through their hands, by exhibiting all the papers in relation to them; and this obligation may be canceled by the collector on the return of the vessel from the voyage; and the number, kind, caliber, and value of the arms and munitions embarked must be set down on the crew-list of the vessel.

ART. 13. When the ship is disarmed its armament shall return to the stores mentioned in article 4; yet the naval officer may allow the freighter to keep the cannon on board.

ART. 14. Every violation of article 12 shall be punished by laws against the export of arms and munitions of war. The custom-house collector is ordered to bring the suit.

ART. 15. Violations of the other articles of this decree shall be punished by the law of the 24th May, 1834.

ART. 16. Our ministers of war, navy, and finance are charged with the respective enforcement of this ordinance.

Done at Neuilly the 12th July, 1847.

LOUIS PHILIPPE.

By the King:

MONTBELLLO,

Duke, Peer of France, and Minister of Marine and Colonies.

No. 7853.—LAW IN RELATION TO THE MAKING AND VENDING OF FIRE-ARMS, OF THE 14TH JULY, 1860.

Napoleon, by the grace of God and the national will Emperor of the French, to all present and to come, greeting:

We hereby sanction and promulgate as follows:

[From the report of the Legislative Assembly.]

TITLE I.—THE MAKING AND VENDING OF FIRE-ARMS.

ARTICLE 1. Any person can make arms or trade in them, by permission of the secretary of war, under conditions specified in the laws and department regulations.

The arms or pieces of arms made in licensed establishments are intended solely for export, except those ordered by the secretary of war for state use.

ART. 2. War arms are those used by French or foreign soldiers; and every arm, large or small, that may be used in war, is called a war arm.

Boarding arms and trade arms are considered as war arms, and are subject to the same regulations.

ART. 3. The permit mentioned in article 1 cannot be recalled by the secretary, unless the maker or vender has violated articles 13, 14, and 15 of the present law, or the law

of the 24th May, 1834, or has committed certain crimes and offenses, as in articles 86, 101, 209, 210, 211, 215, and 216 of the penal code; or against the law of the 7th June, 1848, concerning riots; or against articles 1 and 2 of the law of the 27th July, 1849; or against articles 1, 2, and 3 of the law of the 27th February, 1858.

ART. 4. Every licensed maker or vender must have a register, each leaf to be signed by the magistrate, containing daily accounts of the arms made, bought, or sold, where re sent and to whom sold.

The mayor shall examine and certify this registry once a month, or in his default, the police commissary may do it.

ART. 5. The minister of war, or in case of necessity, generals of divisions, may dictate measures for the public interest or safety in relation to arms stored in their district.

ART. 6. All barrels of war guns, or those intended for export, must be tested, and stamped in proof of it. They shall also have an export stamp on them.

TITLE II.—IMPORT, EXPORT, OR TRANSIT OF FIRE-ARMS.

ART. 7. No arms or parts of arms can be imported without a permit from the minister of war.

ART. 8. Especial provisions shall say where imported arms or parts of arms may be stored. These arms or parts of arms may be regulated by article 5, for public safety.

ART. 9. War arms, or parts of arms, may be exported on conditions specified by law or regulations. An imperial decree may forbid their export, for a certain time, over a particular frontier. Decrees shall say through what custom-house they may pass abroad. When the export to a certain place is forbidden, the exporters, under penalties specified in article 4, title III, of the law of 22d August, 1791, must show that the arms were sent to a lawful destination, by giving bonds, to be canceled at the custom-house whither they are sent, by French consular agents there.

ART. 10. A permit from the war department must be obtained for moving, sending from one place of storage to another, or re-exporting, all arms or pieces of arms. If their export to a certain place is prohibited, permits for that place, given before the prohibition, are of course void.

ART. 11. Lawful importation, exportation, or transit of arms, and their circulation on the frontier, are regulated by the custom-house laws.

TITLE III.—PENALTIES.

ART. 12. Whoever makes arms unlawfully, or trades in them without license, may be fined as much as 1,000 francs, and be imprisoned for one year or less.

Arms, or parts of arms, made or sold without license, are subject to confiscation, and the guilty may be put under guard for two years or less. In case of repetition, the penalty may be doubled.

ART. 13. The maker or trader who does not conform to article 4 of the present law may be fined 300 francs or less, and imprisoned three months. In case of repetition, this penalty may be doubled.

ART. 14. Every maker or trader who violates article 6 may be fined 300 francs, and his arms confiscated. In case of repetition, the penalty may be doubled.

ART. 15. Counterfeiting the proof or export stamp, or the use of such punches, may be punished by a fine of 3,000 francs or less, and imprisonment of five years.

ART. 16. Whoever takes and uses the true punches illegally, shall be fined as much as 500 francs, and imprisoned for two years.

ART. 17. Article 463 of the penal code applies to all the provisions of the present law.

TITLE IV.—GENERAL PROVISIONS.

ART. 18. The forms of petitions for license to make arms and trade in them are fixed by department regulations: the fees for testing and stamping; the transport inland; and the superintendence of the manufacture and sale of them.

ART. 19. The law of the 24th May, 1834, is not repealed, nor the laws and regulations concerning hunting, fancy, and prohibited arms.

ART. 20. All laws contrary to the present are hereby repealed.

Done in public session, at Paris, on the 20th June, 1860.

COUNT MORNAY, *President.*

COUNT LOUIS DE CAMBACÉRÈS,

COUNT LEOPOLD LETTON,

COUNT JOACHIM MURAT,

Secretaries.

[Extract of the verbal process of the Senate.]

The Senate is not opposed to the promulgation of the law concerning the manufacture and trade of fire-arms.

Discussed and voted upon in the session, the 30th of June, 1860, in the Palace of the Senate.

TROPLONG, *President*.

A. LAITY,
Count DE GROSSOLLES,
FLAMARENS,
Baron T. DE LACROSSE,
Secretaries.

Seen and sealed with the seal of the Senate.

Baron T. DE LACROSSE,
Senator and Secretary.

Whereby we command and order that the present, authenticated with the seal of the state and inserted in the records of laws, be addressed to the courts, tribunals, and executive authorities, in order that they may be registered on their records, be observed, and caused to be observed; and our minister secretary of state of justice is charged to superintend the publication thereof.

Done in the Palace of St. Cloud the 14th July, 1860.

NAPOLEON.

By the Emperor:

ACHILLE FOULD, *Minister of State*.

Seen and sealed with the great seal.

DELANGLE,
The Keeper of the Seals, Minister Secretary of State of Justice.

FRANCE.—No. III.

[Received from her Majesty's embassy at Paris.]

REPORT FROM MR. TREITT, COUNSEL TO THE EMBASSY.

[Translation.]

PARIS, March 3, 1867.

SIR: In compliance with the request in your letter of the 25th February, I sent you the French laws on neutrality; I now send you the particulars of six confederate privateers built in France.

On the 15th of April, 1863, a contract was made by James D. Bullock, confederate agent, with Mr. Arman, a ship-builder at Bordeaux and a member of the legislative assembly. It was not known that Mr. Bullock was acting for the confederate government at the time. The contract was to start a line of steamers between San Francisco and Shanghai, touching at Japan. Mr. Arman was to build four fast steamers, to carry twelve or fourteen guns and twelve days' coal. The guns were said to be to defend them against pirates, and the ships were to be exactly like the French sloops of war. Two of the steamers, of one thousand five hundred and fifty tons and four hundred horsepower each, were to be built at Bordeaux by Mr. Arman himself. Mr. Voruz, also a member of the national legislature, was to build the other two in his yards at Nantes. All four were to be ready in ten months. One million eight hundred thousand francs were to be paid for each of the vessels in five installments. Mr. Bullock was to furnish artillery, arms, projectiles, and powder.

On the 16th of July, 1863, another contract was made by the same parties for two iron-clad steam rams, with two turrets each, to be constructed on the same terms, at two millions of francs each. Their destination was not specified. Erlanger was Bullock's banker.

Jollet and Babin, in Bordeaux, and Dubigeot & Son, in Nantes, began the construction of the vessels at the same time, and immediately. Mazeline & Co., of Havre, were to make the machinery. I name these persons because they will soon appear as defendants in a suit by the United States.

The vessels were soon finished, and Arman applied to the secretary of the navy, in accordance with the ordinance of the 12th July, 1847, for a permit to arm them with fourteen cannons, to serve in the Pacific. The permit was given on the 6th of June, 1864; the ships at Nantes were launched in April. Now, Mr. Dayton, the American minister, informs the cabinet that these vessels were intended for privateers. Inquiry was made, and on the 22d October Mr. Arman and Voruz were prohibited from arming the vessels.

The friends of the North justly apprehended that the vessels would get out somehow

and hoist the confederate flag, just as the Alabama, the Georgia, the Florida, and the Rappahannock had done in England.

Here is what became of those six vessels: the Yeddo and Osaka, built at Bordeaux, were sold to Prussia; the Shanghai and San Francisco were sold to Peru; one of the rams, the Cheops, was sold to Prussia, and the other, the Sphinx, was sold to Denmark and taken to Copenhagen. I don't know why the Danish government refused to receive it. It was then called the Olynde, furnished with Danish papers and crew, and taken back to Bordeaux. On the way it stopped at the little island of Houat, not far from Quiberon, and took in coal, arms, and a confederate crew. The vessel then went to Corogne, Lisbon, the Azores, and Havana, where it fell into the hands of the Americans. Such is the story of those vessels. The Americans kept a constant eye on them, and France was not implicated, so there was no national quarrel about them. The Rappahannock got to Calais, and was there watched by the government; its damages are now charged to England.

Though the President of the United States did not complain of France, he brought suit against Arman, Voruz, Jollet, Babin, Dubigeot, Mazeline, Erlanger, and all who had a hand in the proposed privateers. He claims the sum of 2,880,000 francs, received on account of the vessels ordered. The suit is based on these articles of the Code Napoleon:

"ARTICLE 1376. He who receives by mistake or knowingly that which is not due to him, is bound to restore it to the party from whom he has unduly received it.

"ARTICLE 1832. Every action of man whatsoever, which occasions injury to another, binds him through whose fault it happened to reparation therefor.

"ARTICLE 1383. Every one is responsible for the damage of which he is the cause, not only by his own acts, but also by his negligence or by his imprudence."

The first of these three articles treats of the right to reclaim what has been paid unduly. Now, as the contract between Arman and Bullock is null, by French law there was nothing due by it, and what was paid ought to be restored. The two other articles established the principle of the right to damages with interest, by plaintiffs against defendants, for acts or neglects. Such will be the argument of the prosecution, not yet begun.

The French law allows defendants to require security for costs of suit of *foreign* plaintiffs, if they fail in obtaining judgment; and Arman & Co. have asked for a cost bond of 150,000 francs in this suit. The President offers only 5,000. The court insists on 150,000. The President appeals; the appeal court confirms the original sum demanded, and the President must deposit that sum before the suit can begin.

Yours, &c.,

TREITT.

HON. JULIAN FANE, *British Minister.*

FRANCE.—No. IV.

PARIS, December 4, 1867.

MY LORD: I have the honor to transmit to your lordship a further report from M. Treitt on the subject of the action brought by the government of the United States in the French courts against persons concerned in equipping armed vessels for the so-called Confederate States.

I have the honor to be, &c.,

LYONS.

The Lord STANLEY, M. P.

[Translation.]

PARIS, December 3, 1867.

MY LORD: On the 20th February and 13th March, 1867, I sent the French laws on the violation of neutrality to the Foreign Office, together with the account of the privateers which the southern States had armed, or tried to arm, during the secession war in America.

I announced at the same time that the United States were about suing several French ship-builders for the money they had received from southern agents, asking also damages and interest. The suit has already been instituted in the lower court of Paris, and will probably be tried next year.*

Here is the substance of the argument for the United States:

When the war broke out between the North and the South, the French government proclaimed its neutrality by a publication in the *Moniteur* of the 10th June, 1861, forbidding Frenchmen to receive commissions or letters of marque for privateers from either party, or to take any part in equipping and arming a vessel of war or privateer for either belligerent.

Such violations were to be punished by articles 84 and 85 of the French penal code.

A similar declaration of neutrality had already been made by England.

Yet the Confederate States found men, both in England and France, ready to violate

* The trial is now about to be commenced, (May, 1868.)

the laws of their country. The South sent Maury and Bullock to England, where they brought out the Alabama and Florida. Urged by the United States, the English government seized the Alexandra at Liverpool and the Pampero at Glasgow, and promised not to let two iron-clad rams, building in Liverpool, go out of their yards, thus shutting off the confederates from Great Britain. They then turned to France, and sought the aid of Mr. Lucien Arman, a wealthy ship-builder of Bordeaux, and a member of the legislative assembly.

The United States reproached this member for persuading the French government not to recognize the blockade of the southern ports, (see *Moniteur*, 13th February, 1863,) thus protecting his own interests with a veil, pretending to be for the political and commercial interests of France.*

In fact, Mr. Arman was at that time president of a company to build war vessels for the southern States. The ships were reported to be for a line of steamers between San Francisco and Shanghai. Bullock made his contract with Arman on the 15th April, 1863. Arman was to build two vessels in ten months, and have two others built by Voruz, also a member of the legislature, in the same space of time. The two first were to be made at Bordeaux; the other two at Nantes, or rather at St. Nazaire.

Bullock's banker, Erlanger, signed as surety for the payments stipulated in the contract.

Arman is also accused of writing to the minister of marine on the 1st of June, 1863, for a permit to arm the vessels, telling him they were for a Pacific line, thus defrauding the government. The permit was obtained on the 6th June, 1863.

All this is proved by the United States through written evidence, amply corroborated. In a letter dated 12th June, 1863, Mr. Arman, moreover, offered to build six iron-clad floating batteries for the South, and to get a government permit to arm them in French waters.

The above facts were made known to Mr. Dayton, the American minister to France, by Mr. Bigelow, the consul, in September, 1863. Mr. Dayton communicated them to the government, and formally demanded a recall of the permit granted to Arman.

The effect of these communications on the French government may be seen in Mr. Dayton's dispatches of the 11th and 12th September, 1863, to Mr. Seward.

In a correspondence between the minister of foreign affairs and the minister of the marine, the latter says "he can only refer to the declarations of Mr. Arman and Voruz, and cannot be responsible for any illegal acts they may commit."

The French government instituted an inquiry, and Arman and his colleagues denied the facts, which were evident. On the 22d October, 1863, Mr. Drouyn de Lhuys wrote to Mr. Seward that Arman and Voruz were indignant at the charges made against them. The minister of marine withdrew the permit to arm the vessels building at Bordeaux and Nantes; yet Arman & Co. continued their operations.

In February, 1864, Arman introduced a resolution into the assembly to rescind the declaration of neutrality by the French government, but it was not adopted.

In a dispatch from Mr. Dayton to Mr. Seward, dated 14th February, 1864, the former says he regrets that Arman's proposed resolution was not discussed, as it might have brought out all the circumstances connected with the construction of those privateers at Bordeaux and Nantes.

To avoid responsibility, Arman & Co. reported to the French government that two of the iron-clads had been sold to the Danish government, and Mr. Drouyn de Lhuys so informed Mr. Dayton on the 4th February, 1864. Mr. Dayton wrote to Copenhagen, and found this was not the fact.

In April, 1864,† Mr. Drouyn de Lhuys told Mr. Dayton the same ships were sold to Sweden on the 15th April, 1864; but the Swedish minister of foreign affairs denied it in a letter to the United States minister in Stockholm.

On the 12th May, 1864, the Crown orator assured, in the assembly, that Arman's vessels should not quit France "till proof was given that they were not to interfere with the belligerents in the United States."

After this, the Yeddo and Osaka were sold and delivered to Prussia in June and July, 1864. The San Francisco and Shanghai at Nantes gave almost as much trouble as the others, but finally they were sold to Peru in 1865.

Voruz says he returned to Bullock all the advances he made after the vessels were sold to Peru.

Now, there were yet two iron-clad rams to be built by Arman, by his contract of 16th July, 1863. These were the two said to have been sold to Denmark and Sweden. Here is their brief history:

One was called the Sphynx. On the 31st March, 1864, Arnons Rivière, Arman's agent, sold the Sphynx to the Danish government. The vessel was to be delivered on the 10th June, 1864, but it was not ready till the 20th October, when the Danish government refused to take it.

Arman, depending on the generosity of the Danish government, as he said, sent the

* Discussion on the Address, session of February 12, 1863, *Moniteur* of the 13th.

† *Moniteur*, Paris, May 13, 1864.

Sphynx to Copenhagen under French colors. It changed its name there to the Stoer Kodder.

The Danish government, however, did not receive it, and it was taken back to France under Danish colors and papers, which were to be given up to the Danish consul in Bordeaux.

Mr. Arnous Rivière then took the vessel to the Island of Houat, near the Quiberon peninsula. There the Stoer Kodder took the name of the Olinde, as a confederate war steamer. Mr. Dubigeon, of Nantes, sent coal out to it from Saint Nazaire, and an English steamer furnished it with arms and a crew. Captain Page took command. The crew was the same that belonged to the Florida.

After this the ram again changed names and took that of the Stonewall, and then went to Ferrol, in Spain.

All this took place in the month of January, 1865, without the knowledge of the French government.

France put the blame on Denmark for letting the vessel go out with Danish flag and papers.

The representative of the United States government tried to induce Spain to retain the Stonewall. It was suffered to go to Lisbon, but was soon sent away by that government. Two American gunboats, the Niagara and Sacramento, were on the lookout, and followed the Stonewall to Havana, where the Spanish authorities gave it over to the American agents. A correspondence on this subject took place between Mr. Drouyn de Lhuys and Mr. Bigelow. In a letter of the 10th February, 1865, Mr. Bigelow shows that the French minister of justice was cognizant of these facts, and Mr. Arnous Rivière did not deny them. He declared publicly that he was not guilty, and that he was ready for a suit at any time. He was not indicted.

The second ram, called the Cheops, was sold to Prussia. The French government undertook to inquire into the reality of this sale; for Mr. Drouyn de Lhuys "was unwilling to be caught again as in the case of the Stonewall," as Mr. Bigelow remarked in a letter to Mr. Seward, on the 17th March, 1865. Such are the representations of the United States against French justice, and upon them is founded the suit against Arman, Voruz, Dubigeon, Erlanger, and others. The suit has two objects: 1. A claim of property. 2. A claim for damages.

The first claim is for the money paid by the so-called confederate agents to Arman & Co., and which they retain illegally. The second is for damages, by article 1382 of the Code Napoleon, caused in 1863, 1864, and 1865, by violation of the laws of neutrality, the law of nations, and special statutes of France. To justify its claim for the money paid to Arman & Co., the government at Washington says it is money taken from the treasury of the United States by rebels, in States where the federal authority has never ceased; that their acknowledgment as belligerents by France does not affect the federal right; that France made that acknowledgment only to sustain its dignity and neutrality. The money in Arman's hands was paid by illegal contract, and consequently ought to be restored as the lawful property of the United States. This argument is sustained by quotations from the Constitution of the United States, from the Code Napoleon, from writings on the law of nations, from treaties, and many commentaries on the neutrality laws of different nations in former times. The United States contend that they have always observed neutrality, and mention the indemnity paid to English subjects in 1794 to substantiate the assertion. These subjects had suffered from French privateers that had been fitted out in the United States without the knowledge of the American government.

Other cases are cited by the counsel for the United States, to show how they have always respected neutrality. In 1853 they stopped the construction of vessels for Russia, before the war had begun; and in 1855 the Maury was detained on simple suspicion of fitting out for privateering.

The United States then show that the acts of Arman & Co. were illegal, contrary to the law of nations, and against the laws of France. So there is no doubt that the money paid to Arman on illegal contracts is wrongfully detained, and ought to be given up to the United States, particularly as Mr. Arman and his colleagues must know that, by articles 549 and 550 of the Code Napoleon, the holder of property in bad faith is bound to restore it to the lawful owner. It is for these reasons that the United States claim of Arman & Co. not only the sums paid, but interest from the time the money was deposited in France.

In the second place, the United States claim 2,800,000 francs damage from Arman & Co. This demand is founded on article 1383 of the Code Napoleon, which says: "Every action of man whatsoever which occasions injury to another, binds him through whose fault it happened to reparation thereof."

Here is the statement of the damage to the United States: Arman & Co., enjoying an official position in the political world, pretended to act with the secret consent of the French government, thus giving hope of French intervention to the rebels of the southern States.

The armaments prepared in France paralyzed American commerce to such an extent

that northern shippers had to denationalize their vessels to save them from privateers fitted out in England and France; 715 vessels thus changed flags during the rebellion.*

Arman & Co. were partly the cause of these apprehensions, causing a real decrease and consequent injury to American commerce, and of course they owe reparation for it.

The United States allege that 2,800,000 francs is but a small sum compared to the claims against England.

Such is the substance of the suit of the government at Washington against French ship-builders and freighters. I get them from the papers of the lawyers for the United States.

I do not know what defense Arman & Co. will make; it is thought they will except to the competency of French courts in a matter so entirely political. It is also supposed they will allege that if they have violated French laws the French government alone can call them to account for it.

That is all that is known about the defense. In the mean time, I have thought proper to give you this synopsis of the prosecution, because there is a similar dispute about it between Great Britain and America.

This is a sequel to my former notes to the Foreign Office. I hope they will be found satisfactory.

TREITT.

His Excellency LORD LYONS,
Ambassador of Her Britannic Majesty, Paris.

FRANCE.—No. V.

[Extract from the *Moniteur* of April 5, 1868.—Translation.]

NEUTRALS IN THE EASTERN WAR; A MEMORIAL READ BEFORE THE ACADEMY OF SCIENCES, BY DROUYN DE LHUYS, ON THE 4TH APRIL, 1868.

All of you remember the circumstances that brought about the war of 1854 in the East. The proud Prince Menchikoff's mission to Constantinople, with its haughty demands, unmasked the Czar's designs, and united the western powers against the imminent peril. France, already engaged in the discussion of the affairs of the Holy places, did not hesitate to declare the part that the powers of western Europe would take in them against the unexpected claims of the court of Russia. England bravely took position by our side; Austria, Prussia, and most of the European nations were interested in this threatened balance of power, and openly sympathized with the defenders of the common interest.

Soon the situation, at first shaded by diplomatic negotiations, became apparent. Russia passed from words to deeds, and seized a portion of the Ottoman territory, thus giving the alarm to all her friends.

Austria, seeing her frontier menaced, gathered together her troops, determined to sustain her protest by force of arms. The moderation of France and England in advising the Sultan not to consider the invasion of his territory as an act of war, might have averted the catastrophe had not the glimmer from the conflagration of the Turkish fleet, bombarded before Sinope, proclaimed the necessity of war. The allied powers then thought of their duty to save Europe. The dismemberment of Turkey would have been a menace to France and England.

We all remember the anxiety and excitement of those times. Petty national disputes were laid aside, and we all joined for the benefit of civilization and humanity. One of the first considerations was the conduct of the allies toward neutrals. Opinions on this subject were divergent, yet the importance of the cause demanded a previous settlement of the question.

The history of late times shows, by sanguinary testimony, how Great Britain and France differed in their conception of rights and duties of maritime powers in time of war. The dissensions of the two nations on that subject were exhibited in continual contests for the supremacy of rival legislation.

When the Crimean war was about to open the laws on neutrality were, in substance, as follows: Supported by the acknowledged right to cut off an enemy's resources by the destruction of his sea trade, but respecting a neutral flag, France considered it lawful to capture vessels of the enemy, with all the goods aboard, even those belonging to neutrals, while the property of enemies was not to be taken if found on vessels of friendly powers.

England, on the other hand, paid no attention to legal fictions, but assumed the right to search every vessel on the high seas, and confiscate the enemy's goods found thereon, no matter what flag waved over them.

It was also the custom of Great Britain to prohibit neutrals, in time of war, from a trade that the belligerents reserved for their own subjects in times of peace, as the coast trade and colonial commerce.

* See letter of Mr. Seward to Mr. Bigelow, dated March 15, 1865.

This principle was established, first, at the commencement of the seven years' war, and has been since continued by the English under the name of the rule of 1756. The English also had usages in blockade against which we had always protested in our foreign wars. While proscribing paper blockades in theory, they declared blockades by a single ship. We remember that the continental blockade, the great trick at the beginning of this century, was provoked by outrages for which the British government had set the example.

Such were the discordant usages we were trying to reconcile. On the first of January, 1854, the French minister of foreign affairs mentioned to the British minister in Paris the importance of settling a question of such moment to neutrals.

To do that, he said, no absolute principles could be determined, for the principles of each nation were so strenuously maintained that a positive agreement could never be effected. Theories were to be kept, but a common practice must be established. Now this could only be done on the condition that neither nation would make use of practices condemned by the other while the war lasted. Each party could abstain from enforcing rights arrogated to themselves, without harm; whereas, neither could exercise privileges deemed illegal by the other party, without contention.

Such a compromise left doctrines whole, principles intact, and gave no umbrage. Gratefully accepted by neutrals, it suited the interests and liberal intentions of the allies.

This language, while it implied a relinquishment on our part of some privileges claimed by our navy, still harmonized with our national traditions that favored neutral rights and freedom of the seas. We were prompted to do this by the peculiar situation of affairs. The greater part of Europe landed the fact of France and England marching to the aid of an oppressed ally, and this sentiment was a help to the two nations, giving hopes of more substantial aid in future. One of the happy consequences of this attitude was, it allowed them to declare the alliance open to other nations, who might feel a general interest in the common welfare, on the same terms they had accepted.

We all know what weight the opinion of neutral powers had in that war, and how much general sympathy of some, and adhesion of others, placed France and England foremost, and secured the success of their arms. The German courts especially did much good by their resolutions on the progress of events. When the crisis began, Germany was too submissive to our mighty adversary to declare against him openly. We had to temporize with her, as well as with all the Scandinavian nations whose geographical positions were of the utmost importance to us. Stockholm and Copenhagen were still attracted toward Petersburg by the recollection of the armed neutrality in 1780 and 1800. Those acts had been suggested by Russian policy, and if we again provoked them might we not arouse the same resistance and force them to side with our enemy?

The United States of America gave us the same cause of uneasiness. Russia courted their favor, and agreed with them in the interpretation of maritime laws. The great power of the New World had always sustained the rights of neutral flags; so we could not oppose this, and give her an excuse for turning against us.

England was not insensible to these considerations; but she insisted that she could not give up the observance of the inviolable rules of her old maritime law.

In the mean time Denmark and Sweden had given official notice of their intention to remain neutral in case of war. The minister of foreign affairs, writing to London about that communication, used it to induce the British cabinet to solve the questions it contained. On the 4th of January, 1854, he wrote to our ambassador as follows: "Try to find out what the English government is going to do about neutrals. We have always differed from England on that subject; and I have reason to think, from what I have seen in the papers, that merchants would not like to see the old English law applied in all its rigor. Without open discussion, I beg you will collect what information you can on the subject, and find out what England expects of Denmark and Sweden in regard to neutrality. Lord Clarendon knows that Russia is much displeased with those two powers, particularly with Sweden, for her declaration of neutrality. This is another reason to believe in the sincerity of the cabinets at Copenhagen and Stockholm, and a good reason why we should not increase the embarrassment of their position by too great exactions."

On the 12th of January again wrote to London, inclosing a copy of the dispatch which he proposed to send to Stockholm and Copenhagen: "I hope Lord Clarendon's answer will satisfy Sweden and Denmark in regard to their neutrality. I know England will adhere to her old maritime laws; but I hope she will try to agree with us in practice, if war breaks out. It will be the best method to secure the sympathy of those two courts, particularly as they have no very good feeling for Russia. Though this independence is a power to St. Petersburg, the court there does not consider it such. We must not watch too closely the trade from Sweden and Denmark to Russia, lest we disturb relations that are now entirely satisfactory. I know that Sweden confidently expects free trade under a neutral flag."

What particularly disturbed England was to see America incline to our enemy, with a prospect of aid with hardy volunteers. The seafaring people of the United States, with their strong navy, might furnish Russia with privateers, to cover the sea and disturb our commerce in its most distant corners. To avoid this, London had to flatter the federal government. It determined to propose to all maritime nations the abolition of privateering, and to treat every vessel cruising with letters-of-marque in time of war as a pirate.

This project, though afterwards abandoned, shows how concerned the English were about it. We agreed with them in holding that privateering was a barbarous practice for gain, masked by the pretext of patriotism. In former times it gave some heroic names to history; but we want no such materials for history now. It is no longer compatible with the uses of civilized nations that do not allow rights of war to individuals, but reserve them alone for regularly constituted nations.

If we had less to lose than England in this contract, it was not from ambition, but from necessity. To reconcile two different practices extreme indulgence was necessary. It was not simply a question of interest and convenience, but a logical law. England could not ask us to adopt a law we had always condemned. We might have replied: If we must agree, you must consent to seize neutral goods under hostile flags, as we do. Then they would have answered: But we hold that neutral goods are inviolable everywhere, and under all circumstances; we have proclaimed this a thousand times; and now, just to agree with you, we cannot assume a right which we have always condemned.

The friendly relations with our allies increasing daily authorized us to press our propositions. While this subject was in discussion, the two governments showed their mutual friendship by instructing their diplomatic and consular agents, their colonial governors and their naval officers, to extend reciprocal protection alike to English and French in every part of the world. Thus, to the world, the English and French flags were united, and this only rendered concerted action more urgent. The anxiety of private interests, the pressure of public opinion, the needs of commerce, required an end to uncertainty. The matter was discussed in the British Parliament the latter part of February. One of the Crown ministers stated that the Queen would publish her intentions toward neutrals before war was declared, and the French minister wrote to our ambassador, on the 1st of March, as follows:

"I hope England will not decide on this matter without consulting us. It would look bad for two countries, united in one war, to differ in theory and agree in practice. Please call Lord Clarendon's attention to this. I think it would be well to instruct our naval commanders how to act toward neutrals in the Black and Baltic Seas, without declaring any specific law on the subject, to frighten those who did not understand it. In this way France and England would reserve their particular doctrines and agree in practice, that might be altered according to circumstances."

To the above dispatch, containing the conversation between the minister of foreign affairs and the English ambassador in Paris, the British government replied that Crown lawyers had been consulted, and a decision would soon be rendered, but certainly not before consulting the government of the Emperor. It was hoped some general principles could be agreed upon, and similar instructions given to the naval officers of each nation.

Several days after, on the 4th of March, Lord Cowley told the minister of foreign affairs in Paris that his government would confine search on the high seas to ascertaining the nationality of the vessel and seeing that there were no contraband goods nor hostile correspondence on board. He admitted that neutral flags protected hostile goods, and that neutral goods were safe under hostile flags. He also declared that no letters-of-marque should be issued, and that all subjects caught with them should be treated as pirates.

This document, considerably modified before it was sent to Paris, contained important concessions. It was new for England to agree to respect hostile goods under neutral flags. This was to conciliate neutral powers, whose flags had been so often insulted by its privateers in late wars, and to smooth over the vexatious right of search, that had been the terror of non-belligerents of all nations. Still we wished to close the door that was left open to too much abuse, and we demanded greater security for neutrals.

After a discussion of the subject by the French minister and British ambassador, the modified declaration was sent back to London on the 20th of March.

"This project (wrote the minister) has been carefully prepared by Lord Cowley and myself. I have sent it to the minister of marine for his opinion on it. I think we will have to agree upon a declaration applicable only to this war, agreeing in action but differing in doctrine, and one that will not compromise neutrals."

On the 24th of March the minister of foreign affairs wrote to Count Walewski, our ambassador in London, as follows: "Lord Cowley's observations on a declaration in relation to neutrality, sent to you on the 20th, merits a criticism, which I will now make.

"If the English government wants its declaration to say 'that it reserves the appli-

cation of such or such principle,' or 'that it renounces for the present the exercise of such and such a right,' thus showing the principle to be recognized and the right claimed, two declarations will be necessary, similar in doctrine but differing in form. The French government cannot say 'it renounces the exercise of a right' it never claimed; nor 'that it reserves the application of a principle' it has always refused to recognize. This is a mere question of form; what is of real importance is the agreement on some practical rule for our conduct in this war.

"I now pass to two important points, to which I beg you to call Lord Clarendon's attention.

"The first relates to neutral goods seized on board hostile ships. The project I sent you declares they shall not be confiscated. That is a serious question for the French government. In fact, it is feared that hostile goods or hostile vessels may be transported without risk by means of forged neutral papers; and as French laws confiscate hostile vessels and their neutral goods, a new law would be necessary to deprive seamen of their prize-money coming chiefly from that source. I shall have to consult the minister of the marine about it, and this I cannot do until I learn the definite intentions of the British cabinet.

"The English government seems to insist that the proposed declaration shall forbid neutrals, in war time, from engaging in colonial or coast trade, if they are reserved during peace.

"It is hardly necessary to remind you how persistent the French government has always been in sustaining the remonstrances of neutral nations against the adoption of that rule. France is therefore bound by historic precedents, as well as by treaties with other nations, in which she promised to allow all ships to trade freely in time of war, even between hostile ports. How could we now agree to a provision refusing neutrals a right we have always claimed for them, and which we have solemnly proclaimed in our treaties?

"I only mention cursorily the interest that this question has for France, and the consequences of the adoption of the proposed regulation. England, that always admits foreign flags to participate in colonial and coast trade, has nothing to dread from the application of this principle; but France, that reserves such trade for her national vessels, may eventually suffer from its application.

"I question if the insertion of such a principle in the declaration would be of benefit in this war. In peace times, Russia reserves colonial and coast trade; but in the Baltic the coast trade has so few ports that they could be completely closed by blockade. The same may be said of the Black Sea ports, now controlled by the combined fleet. As to trade in Russian America, now monopolized by a company, if it should be held by vessels of the United States it might arouse serious disputes with France; for, in her treaty of 1778, with the United States, she allows neutrals to trade at reserved ports in war time.

"I am pleased to see that England has done much to accord with the French doctrines, and you may assure Lord Clarendon that we are willing for a mutual compromise. We have given a proof of it in the question of neutral goods on hostile vessels; but I am sure Lord Clarendon will not expect us to allow neutrals to trade at reserved ports. The English government, considering the proposition as founded upon the law of nations, may readily renounce it without injury to its system, while France cannot make a rule which she cannot apply without violation of her principles.

"I beg you will place these remarks before Lord Clarendon. I hope they will induce him to leave out of the English declaration a rule that France cannot put in hers. Both nations, up to this time, have endeavored to agree, and it is to be hoped that minor questions will not now disturb their unanimity. If the two countries cannot adopt the same principles on certain points, they should avoid proclaiming different ones.

"Please let me know, as soon as convenient, the result of your conference with Lord Clarendon on this subject."

The tender points touched upon in this dispatch made England hesitate.

On the 26th of March, the minister of foreign affairs telegraphed to Count Walewski thus: "Insist upon the serious inconsistency of discordant declarations that would spread doubt of a good understanding between the two countries, would alarm neutrals, and would cause inevitable conflicts between commanders. If Lord Clarendon accepts the principle of a joint declaration with separate minute instructions, ask him to communicate the fact to me immediately, so that I may come to an understanding with the minister of marine."

Here is what the minister wrote on the 27th: "My late interviews with Lord Cowley have been confined to the important and delicate question of the rights of neutrals. Lord Clarendon must have been informed of the subject of these discussions, and I know the English ambassador has already sent him the substance of the declaration we have agreed upon; and so he must have been prepared for the dispatch of the 24th of this month, intended to effect a definite settlement of opinions. My telegram of yesterday showed you the interest the government of the Emperor takes in the settlement of such

an important question, now that the war has begun. I hope you will persuade the secretary of state to relinquish his project of publishing two distinct declarations. We would regret to see England adopt measures, at the very beginning of the war, that would indicate a misunderstanding between the two countries, and thus weaken the effect of our supposed unity.

"If we come down from important principles to minor details, the danger is not less perceptible. Neutrals may choose between the declarations of France and England; and they will certainly select those that are the most consistent with antecedents and most favorable to them. Would it not be better to insure them safely in the unity of the two navies, and not force them off by reviving old quarrels?"

"On the other hand—and this is not one of the least objections to Lord Clarendon's system—how could naval commanders agree in practice, of principles so discordant in theory? Disputes would be constantly arising between them, to the danger of the success of their operations.

"The United States are ready to take the part we refuse, and make themselves protectors of all neutrals that ask their aid. The Washington cabinet has already proposed to us a treaty of friendship, navigation, and commerce, containing a series of articles affirming principles it has always sustained, and which do not differ from ours. Her Britannic Majesty's chief secretary of state knows we cannot refuse this, even if France and England adopt opposing principles in this joint war. But if the two nations agree upon a common declaration, then we may postpone the consideration of the American proposal. This reasoning must strike Lord Clarendon, and I hope he will accept a project to be applied only in this war, and that will not affect the doctrines of either nation. Instructions to the commanders of the war vessels of both nations would make up deficiencies in the declarations; but these instructions should be drawn up in concert; and you may assure Lord Clarendon that the minister of marine will do all he can to agree with the English admiral in the instructions he gives to our admirals."

On the same day the minister sent a new draught of a declaration to London. It contained a brief preamble, bringing together, as nearly as possible, in form and substance, all the English ideas. He wrote about it as follows:

"This declaration, which I have agreed upon with the minister of marine, does not pretend to consecrate the essential principles upon which the accord of the two governments is based; separate instructions will regulate the application of them by law, and thus settle the discrepancy of doctrines that cannot be arranged at present."

On the 28th March, Lord Cowley wrote that his government determined to insist on prohibiting neutrals to trade "in transit, between two ports belonging to the enemy."

We could not accept that. The minister of foreign affairs said: "I regret that the English government forces us, by this, to make a separate declaration, the same in substance as that proposed yesterday, with the exception of a preamble which I have submitted to the Emperor. As you will see I have obtained the marine minister's consent to exempt the seizure of neutral goods on hostile vessels.

"Lord Cowley has sent me the proposed instructions for commanders of English vessels, which were ready to be signed. Now it is useless to broach questions opposed to our principles in that declaration; all we can do is to make out instructions for our own vessels. I have ordered the minister of marine to do this, and I will send them to you as soon as they are made out. I hope there will be no serious difficulty in the execution of these instructions, as we agree upon the most essential points in them. I acknowledge the liberality of the English government in accepting our principles in matters of blockade."

Both governments regretted this disagreement upon small matters; but France was bound to other nations and could not break her treaties with them. In affairs where her latitude of action was not restricted, she showed her willingness to meet her ally half-way in liberalizing old laws. Thus, in every proposal sent to London proposing to abolish privateering and other ancient customs of our navy, we always allowed neutral goods under hostile flags.

The British cabinet considered the dilemma of the situation. He was conscious of the absurdity of issuing two different declarations to be applied to neutrals under the same circumstances. A new conference was had at the last moment, and after a warm discussion it was decided that the objectionable article should be expunged from the English declaration.

Now the understanding was complete. In a few hours, thanks to the telegraph, the two cabinets agreed, and announced the immediate publication of a joint declaration. The French copy appeared in the *Monitor* of the 30th March, 1854, dated the day previous. So you see there was no time lost. Here are the two documents; the first is preceded by a report to the Emperor:

REPORT TO THE EMPEROR.

"PARIS, 29th March, 1854.

"SIRE: At a time when maritime relations and commercial interests hold such an important place in the existence of nations, it is the duty of a nation at war to make

its effects felt as little as possible, by allowing neutrals all freedom of trade not incompatible with the state of hostility, in which they desire to take no part.

"But it is not enough for belligerents to have the secret intention of always respecting the rights of neutrals; they must also endeavor to calm the suspicious of commerce by leaving no uncertainty in the principles which they mean to apply.

"A regulation of the duties or rights of neutrals might seem an insult to the sovereignty of nations that wish to remain neutral; yet the spontaneous declaration of the principles which a belligerent promises to observe is the most formal pledge he can give of his respect for the rights of other nations.

"In this conviction, I have the honor to submit the following declaration, agreed upon with the government of her Britannic Majesty, to your Majesty's high approbation.

"I am, with respect, sire, your Majesty's very obedient servant and faithful subject,
"DROUYN DE LHUY8.

"Approved:

"NAPOLEON."

DECLARATION RELATIVE TO NEUTRALS, LETTERS OF MARQUE, ETC.

"His Majesty the Emperor of the French, being forced to take up arms to sustain an ally, desires to render the war as little onerous as possible to the powers with which he is at peace.

"In order to avoid all unnecessary restrictions upon the commerce of neutrals, his Majesty at present consents to renounce a portion of the rights which belong to him, as a belligerent power, by virtue of the law of nations.

"His Majesty cannot renounce the exercise of his right to seize articles contraband of war, and to prevent neutrals from carrying dispatches from the enemy. He also insists upon his right, as a belligerent power, to hinder neutrals from breaking a blockade formed by a sufficient force before the forts, harbors, or coasts of the enemy.

"But his Majesty's vessels will not seize property of the enemy on board a neutral vessel, unless that property be contraband of war.

"His Majesty will not claim the right to confiscate the property of neutrals found on vessels of the enemy, unless it be contraband of war.

"His Majesty also declares that, moved by the desire to mitigate the ills of war as much as possible, and to restrict its operations to regularly organized national troops, he does not intend, at present, to deliver letters of marque to authorize the arming of privateers."

The day on which this declaration was published on both sides of the channel the minister of foreign affairs wrote to London as follows:

"I am much pleased with this proof of accord between England and France on a question of such importance to the reserved rights of neutrals in this present war. This harmony will make a good impression abroad, and will win the sympathy of all the commercial nations of the world. Please say to Lord Clarendon that the Emperor's government is pleased with the action of the government of Queen Victoria on a matter he had much at heart, and that he considers its settlement on the present terms as one of the best results of the intimate reliance of the two countries."

The confidence expressed in his letter was realized. The new agreement of France and England on rules of maritime law was hailed by neutrals as the dawn of a day of justice and reparation. Protected from the harm of war, they had no fear of being dragged into another's quarrel, and could peaceably carry on trade in the midst of battles, provided no fraud brought down upon them the vengeance of the belligerents.

On communicating these dispositions to different governments, they were told that a strict compliance with the duties of neutrality was the condition of the advantages they accorded to neutrals. Such was the purpose of the following circular, sent by the minister of foreign affairs to all the agents of his departments accredited to powers not engaged in the contest. It bears date the 20th March:

"SIR: The declaration of the French government on the subject of neutrality, together with my report of it to the Emperor, on submitting it to his high approbation, was published in the Monitor of this day.

"The British government has also promulgated the same declaration.

"At a time when the two nations take up arms in joint defense of an ally, they cannot give a better proof of their unity of sentiment than by adopting similar resolutions on a subject about which they have hitherto differed.

"The government of the Emperor, knowing the care of France for neutrals, had studied the questions of neutrality, to decide them in favor of nations with whom we are at peace. The British government was also animated by the same desire, to leave neutrals in possession of all advantages that were not necessary to be restricted by absolute military necessity.

"This community of views dictated the declaration adopted by the two governments; and I do not hesitate to say that a document of such favorable terms was never before made up.

"The intention not to issue letters of marque is there officially announced.

"The necessity of an efficient blockade is admitted.

"Neutral flags will protect goods, and neutral goods will be safe under hostile flags.

"Such are the advantages that will be secured to trade during the war; and even after it is over, this joint declaration will remain as a precedent in the history of neutrality.

"But, as the union of France and England grants advantages to neutral nations, those nations must implicitly respect the rights of the belligerents. We have reason to hope that neutral governments will commit no hostile acts, and will force their subjects to observe a strict neutrality.

"I will soon send you a form of notice of this declaration, made out in consultation with her Britannic Majesty's government, for the government near which you are accredited."

A few days after, these documents were addressed to the same agents:

"PARIS, April 5, 1854.

"SIR: I have the honor to transmit to you the project of a note, which you will address immediately to the government near which you are accredited, to inform it of the principles that France and Great Britain intend to apply toward neutrals during the present war, together with the resolution of the two governments not to issue letters of marque for the present.

"Her Britannic Majesty's representative will receive orders to address a similar communication to the government of * * * * *

"You will send me the answer of the government of * * * * * as soon as you get it, and will see that it answers the expectations of the two governments."

SUBSTANCE OF THE NOTE.

"The undersigned is instructed by his government to address to your excellency the following communication:

"His Majesty the Emperor of the French, and her Majesty the Queen of the United Kingdom of Great Britain, find themselves obliged to resort to force of arms to repel the aggressions of the government of his Majesty the Emperor of Russia upon the Ottoman empire. Desiring to make the disastrous effects of war as light as possible on commerce, their Majesties have resolved not to authorize privateering for the present, by the issue of letters of marque, and at the same time to make known the principles to be applied to navigation and the trade of neutrals during this war. With this design, his Majesty the Emperor of the French publishes the annexed declaration, identical with that published by her Majesty the Queen of the United Kingdom of Great Britain and Ireland.

"By confining their rights as belligerents to strict limits, the allied governments will depend upon the honest efforts of neutral powers in this war to make their subjects observe the strictest neutrality.

"Therefore, the government of his Majesty the Emperor of the French trusts that the government of * * * will accept these joint resolutions of the two allied governments, and in return will order that no privateer under Russian colors be armed, supplied, or admitted with prizes into the ports of * * *, and that its subjects rigorously abstain from taking part in armaments of this kind, or any other, contrary to the duties of a strict neutrality."

Thus, even in the details of their joint notice, France and England exhibited their perfect accord; and it was not disturbed by subsequent events.

Instructions were sent by the two governments to their respective naval commanders to reconcile any minor divergencies in their regulations, without appeal to the cabinets of Paris and London.

Neutrals took advantage of all the favors granted them, but did not abuse them; and during the whole war France and England had no cause to regret their generous resolutions. These new regulations, after trial by two great maritime powers, were universally accepted by other nations as a blessing.

In England, as well as in France, the commercial classes, far from feeling jealous at the security which this liberal principle gave to rival interests, rejoiced at the general development of trade produced thereby, and felt that it would finally redound to their interests. You will remember that the Universal Exposition of 1855, which took place in Paris while our land and sea armies were fighting in the Crimea and in the Baltic, furnished ample evidence of the vigor and success with which the labors of peace were prosecuted, even in the midst of a sanguinary war. The sight was glorious for the century that first produced it, and it was calculated to inspire a just confidence in the progress of the ideas which its triumph signalized. The cruel needs of war were confined to a specific circle, outside of which peaceful and laborious humanity preserved its rights.

The system inaugurated by the war of 1854 answered the common wants of all people so well that it readily assumed the nature of a definite reform of international law.

At the Paris peace congress of 1856, the members who had to discuss the results of the war naturally adopted the regulations therein practiced by the belligerent powers toward neutrals. This was expressed in the Paris declaration of the 16th April, 1856, which says:

1. Privateering is abolished and shall remain so.
2. Neutral flags protect hostile goods, unless contraband of war.
3. Neutral goods, not contraband of war, cannot be seized under hostile flags.
4. Blockades, to be binding, must be effective; that is, maintained by a force sufficient to prevent approach to the hostile coast.

All nations adopted this declaration except Spain, Mexico, and the United States of North America. The two first reserved the right to arm privateers, and agreed to the other articles. The United States would have accepted them all, provided an article to respect private property at sea had been added.

With the exception of these restrictions, the arrangements concluded in 1854 between England and France have fallen into the public domain, and are now placed under the authority of the law of nations.

This result was easy to be foreseen. When we began treating with England, at the beginning of the war, to soften its resistance and remove scruples we insisted upon the transitory nature of the concessions we asked; but we knew they would become permanent by force of circumstances and unanimous consent. In fact, when common interests are developed for a certain time they soon become, under the protection of a more liberal system, the supports and defenses of the principles which first protected them.

DROUYN DE LHUYS.

ITALY.

FLORENCE, March 2, 1867.

MY LORD: With reference to your lordship's dispatch marked circular of February 14, directing me to obtain official information respecting the neutrality laws of Italy, I have the honor to transmit herewith to your lordship copies, accompanied by translations, of the laws in force upon this subject, as well as the code of regulations for the Italian mercantile marine, containing certain rules to be observed by the superintendent of harbors respecting the sojourn in them of belligerent vessels of war, which have been transmitted to me by the Italian minister for foreign affairs.

I have, &c.,

HENRY ELLIOT.

CIRCULAR OF THE MINISTER OF MARINE.

TURIN, April 6, 1864.

In transmitting to your excellency the royal decree of to-day's date, on the neutrality of the ports of the kingdom, the undersigned thinks it opportune to accompany it with the present circular, which is intended to serve as a rule for the practical application of the regulations contained in the same.

The report to his Majesty, which precedes the decree itself, will make known to your excellency the fundamental principles of the international maritime law on which it is founded, as also the general rules which guide it.

Such rules and such principles, having been recognized by the publicists of all nations and of all epochs, are, moreover, borne evidence to by recent and analogous regulations which have emanated from the principal maritime powers during the last few years.

The state of neutrality which the government of the King intends to observe with respect to powers which find themselves in declared hostility to each other imposes certain obligations on the belligerent parties, obligations which cannot be separated from the analogous rights which accompany them; and, therefore, in declaring the duties imposed by the most strict neutrality it is necessary to mention, at the same time, the prerogatives which arise from such conditions. Thus, in forbidding Italian subjects from taking part in any way whatsoever to the advantage or disadvantage of the belligerent States; in preventing that in places on the sea-shore any commercial operations should be carried out which could produce harm to the powers which are at war against each other; in forbidding, under pains and penalties, that any citizens of the kingdom should take service on board the belligerent ships, refusing them also in such a case any protection on the part of his Majesty's government, and, on the contrary, leaving them under the jurisdiction of the laws of the other parties; it was necessary, on the other hand, to avoid the seas within the territorial jurisdiction of the kingdom serving as a field for hostile operations between the belligerent powers, or the ports and places of anchorage along the extensive Italian coasts serving to afford means of armaments, or being used as secure bases for hostile operations.

It having been agreed, recognized, and stipulated by international treaties that foreign subjects ought to submit to all the laws and regulations which relate to public security, and to the police of the country in which they sojourn or are domiciled, it follows as a logical and natural consequence that the laws and prohibitions contained in article 4 ought to be considered to extend to foreign subjects who happen to be in the kingdom.

The law of humanity, which suggests that in cases of danger even an enemy who was harmless should be assisted, finds its application in the 7th article of the accompanying decrees. To those ships or privateers of the belligerents who should be driven by stress of weather into the ports of the kingdom, or who should there seek refuge to repair damages or to procure provisions or commodities, to such ships it is impossible to refuse shelter and assistance. Nevertheless, the duties of humanity are confined to requirements necessary for safety of navigation, and do not extend to any request for means which could in any shape or manner increase the offensive or defensive force of the said ships.

Consequently, if in any port, roadstead, or coast belonging to your excellency there should come any ship of war, or belligerent privateer, for refuge against bad weather, or to repair damages it had suffered, or to procure provisions or materials indispensable for pursuing its voyage with safety, your excellency, in virtue of article 10, could not refuse such request, but would decline, according to the terms of article 9, to accede to any demand which could in any way increase the means of military offense or defense of the said ship.

The power of landing at or arrival in the harbors or coasts of the kingdom cannot, however, be granted to belligerent ships accompanied by prizes, except in the sole case of stress of weather. In the event of their being in need of repairs or provisions, they must first agree to set their prizes at liberty, and then their requests will be granted, but otherwise every assistance must be refused, the presence of a prize constituting a continuance of hostile operations within the waters under the territorial jurisdiction of a neutral country.

The second paragraph of article 10 provides that a supply of coal can only be granted twenty-four hours after the arrival of the belligerent ship which has made the demand. In this regulation your excellency will perceive that the undersigned has in view to prevent these sort of supplies serving for immediate offensive purposes against ships of the other belligerent party which might be followed by the one which made the demand for fuel, even though it might have been requested for security of its navigation. The period of twenty-four hours specified in the said article may, in special cases, be extended by the authority of your excellency, but may never be reduced.

The regulation of article 11 of the subjoined royal decree requires, besides its exact observance, that the marine authorities should use all possible care to avoid, in the way they carry it out, any opportunity for immediate hostilities between the ships of the two belligerent parties. In interpreting the article 11 above mentioned, the state of the weather must be taken into consideration in determining the interval allowed to elapse between the departure from port of the first ship and that of the second. The reciprocal conditions of sailing and steamships must be kept in view, the sailing ship, in such a case, being first required to depart rather than that one possessed of mechanical motion, except in the event of the former being a mercantile steamer and the latter a public armed ship or a privateer.

On the arrival at anchorage of a ship of war, of whatsoever nation, or in whatsoever locality of the kingdom, a copy of the accompanying royal decree shall be conveyed to it. If the said ship belong to a belligerent power, there shall be also given to it a copy of the inclosed schedule, with the request that the various columns may be filled up in the manner indicated. The same system will be followed towards privateers.

A copy of the said schedule will, as soon as it be filled up, be immediately forwarded to the undersigned in the proper way, the captains and officers of the port not omitting individually to inform the proper authorities under whom they are placed in order of departmental seniority.

The presence of considerable maritime forces in certain ports of the kingdom, as indicated by article 12 and specified in article 13, might in some cases hinder the free action of the government, and the undersigned, following the example of the measures prescribed by other powers on this head, proposes that his Majesty should give his assent to the rules laid down in the accompanying articles.

While the rules contained in article 12 should be scrupulously observed, the naval commandants of the ports, specified in article 13, must use every precaution in applying them, in order to avoid misunderstandings, and to prevent the general maritime regulations from being viewed as bearing a character of mistrust.

Nevertheless, the captains of ports, of which mention is made above, upon seeing the approach of a squadron comprising more than three vessels of war, shall be careful not to await their entrance into harbor before communicating to them the disposition aforesaid, but shall meet them outside the harbor as soon as it shall be manifest that they

intend to anchor, and thus inform them in good time of the rules which obtain in that port with respect to the presence of foreign naval armaments.

Should the squadron comprise three ships or less, then the captains of the ports, following the directions of article 14, shall go on board of the senior officer's ship, or the man-of-war should she be alone, and communicate to him the provisions of article 12 with respect to the stay of the squadron in the harbor.

From the second paragraph of article 12 your excellency will perceive that, with the permission of the government, ships of war, three or less in number, may be allowed to sojourn for a longer period than eight days in the ports mentioned in article 13.

Therefore, should the commander of the squadron express a wish to prolong his stay beyond the period prescribed by the rules, your excellency will inform the undersigned of the same as soon as possible, and await a reply, before requesting the commander to take his departure, even though the period of eight days were thereby exceeded.

Your excellency will gather from article 8 that the government are desirous of making an exception to the rules laid down by the royal decree in favor of those vessels of war whose mission is exclusively scientific; and this exception, made some years ago, is to be extended also to vessels belonging to a belligerent state.

This exception refers, however, solely to those vessels whose mission is altogether beyond suspicion, and already recognized by the government by diplomatic means, and has been assented to by them.

In such cases the respective captains of ports will be advised in time by the ministry of marine itself.

Whenever any doubt shall be entertained by the naval authorities as to the interpretation or application of the various cases contemplated in the articles of the said decree, they must refer at once to the ministry in writing, and ask for instructions and explanations.

CUGIA.

REPORT ADDRESSED TO THE KING BY THE MINISTER OF MARINE.

TURIN, April 6, 1864.

SIR: The Paris convention of April 16, 1856, has established new bases of public laws in naval war with respect to neutrals and to belligerent powers.

Property belonging to the subjects of a state which remains neutral in war, even if embarked upon hostile ships, is now respected; nor does it constitute, any longer, in most cases, prize of either belligerent.

The obligations undertaken by the powers signatory to the above convention, and by the countries adhering to it, not to issue letters of marque to merchant ships, have also modified those principles of maritime law which refer to privateers and their prizes.

These principles, however, intended to diminish the losses sustained by private individuals during a maritime war, were not accepted by all naval powers indiscriminately, and for that reason the laws regarding privateering and its prizes contained in the various codes and regulations of maritime law could not be abrogated, being kept in reserve for such cases as those of a war with one of the countries which had refused its adherence to the principles laid down in the Paris convention.

This explains the motives why the maritime powers who framed these new bases of law should now also issue regulations regarding the armaments of privateers.

The conditions of the portions of North America at war induced, at the commencement of that struggle, the French government to declare in a note dated 10th June, 1861, and also the British government in a letter of 12th January, 1862, from the Foreign Office to the lords of the admiralty, what principles were to serve as a basis of neutrality to those governments during the disastrous war in America.

Recently, however, and in spite of this declaration, hostile enterprise was carried into the waters of the neutral European powers by certain vessels pertaining to these belligerents, which also sought to repair damages and obtain provisions in neutral ports.

Although the position of this kingdom may exclude the supposition that any of the armed vessels or privateers of the belligerent States of America might ever have occasion to approach the Italian coast under circumstances calculated to cause trouble to a neutral power, this supposition assumes another aspect when the movements of the ships of war belonging to the northern powers of Europe are considered now even in a state of armed warfare.

These facts will doubtless compel the attention of your Majesty's government to the consequences which may ensue to a neutral state, and also to provide that while the duties of neutrality are observed, the rights which such a state insures to the neutral powers be equally respected.

While compiling the project of law which I have now the honor to submit to your Majesty, besides detailing the principles which should regulate the conduct of the maritime authorities, the seafaring population, and your Majesty's subjects, to preserve

the strict limits of neutrality now to be the guide of the Italian government towards the powers at present at declared war, I think it right to declare what regulations are already in force in many harbors of the kingdom, sanctioned by previous law, and common to all maritime nations, whether as a special right obtaining on certain parts of the coast, (*Quale prerogativa propria su certi punti speciali delle coste*), or as being recognized by all those who have ever treated of international maritime law.

Whenever your Majesty will approve of the considerations which are the basis of the scheme of the following decree, I would humbly hope that your Majesty will deign to confer upon it your royal sanction.

E. CUGIA,
Minister of Marine.

VICTOR EMANUEL II, ELECT KING OF ITALY.

With reference to the royal patents of 24th November, 1827, which determine port regulations;

With reference to the penal law for the mercantile marine, dated January 15, 1827;

With reference to the royal decree of December 22, 1861, which extends the laws and regulations of the mercantile marine in force in the ancient provinces to all new provinces of the kingdom;

Considering the state of the existing relations between Italy and other maritime states which are in open hostilities;

Considering the rights reserved by international maritime law respecting certain special parts of the seaboard of any maritime state, tending to maintain and guarantee the state of neutrality of that kingdom towards belligerent powers; and to render valid, under all circumstances, those rights which might spring from or be derived from such a state, (of neutrality,) and also to preserve intact its liberty of action;

On the proposal of our minister of marine, in concert with our minister for foreign affairs, we have and do decree:

ARTICLE I. It shall not be allowed for any ship of war or privateer belonging to a belligerent state to enter into or remain with prize in any port or harbor of the kingdom, except in case of necessity.

ARTICLE II. In such exceptional cases, and under the conditions contained in the preceding article, ships of war and privateers must leave the coast of the kingdom as soon as the cause which forced them to seek shelter shall have been removed, and according to the dispositions of article XI.

ARTICLE III. No sale, exchange, transfer, or gift of objects of plunder shall be made under any pretext in the ports, harbors, or coasts of the kingdom.

ARTICLE IV. No Italian subjects shall take commission from either belligerent power to arm ships for war, or to accept letters of marque to cruise, or assist in any way in fitting out, arming, or preparing for war a vessel or privateer of the said belligerents.

ARTICLE V. According to the 35th article of the penal code for the mercantile marine, no Italian subject shall be enrolled or take service on any ship of war or privateer belonging to either belligerent.

ARTICLE VI. No Italian subjects guilty of contravention of the rules laid down in the preceding articles 4 and 5, or who shall commit any act against one of the belligerent powers, contrary to the duties attendant upon the neutrality maintained by the Italian government towards the said parties, can claim protection against the acts or measures of whatever nature which the belligerents may deem right to enforce against them, and besides, they incur the penalties mentioned in article 5 of the present decree, according to the dispositions of the 80th article of the penal code for the mercantile marine, dated January 13, 1827.

ARTICLE VII. No belligerent vessel of war or privateer shall remain more than twenty-four hours in any port, harbor, or anchorage in the kingdom or adjacent waters, even though alone, except in cases of necessity caused by stress of weather, for repairs, or for want of necessary provisions for the safety of navigation.

ARTICLE VIII. Vessels of war belonging to a friendly power, even though belligerent, can anchor and remain in the ports and harbors of the kingdom, when their mission is purely scientific.

ARTICLE IX. In no case shall a belligerent vessel of war make use of an Italian port for warlike purposes, or for providing itself with arms and ammunition. Neither shall it, under pretext of repairs, do anything to increase its force in action.

ARTICLE X. There shall not be furnished to belligerent vessels of war or privateers other than provisions in portions for the subsistence of the crew, and the mere means for making those repairs actually necessary for the safety of the vessel. Belligerent vessels of war and privateers wishing to coal can only do so twenty-four hours after their arrival.

ARTICLE XI. When vessels of war, privateers, or merchant vessels of both belligerent powers shall meet in the same port or harbor of the kingdom, there shall be an interval

of twenty-four hours between the departure of any vessel belonging to one power and that of any vessel of the other power. The local maritime authority has power to prolong this interval according to circumstances.

ARTICLE XII. In ports considered as naval fortresses or military fortresses, in anchorages where military or naval arsenals, dockyards, or other similar buildings, only three vessels of war belonging to the same power shall be there at once, and then for no period exceeding eight days.

This period can only be extended in cases of necessity or for the sake of repairs, under formal permission of his Majesty's government, to whom application must be made by the local maritime authorities through the minister of marine.

ARTICLE XIII. The ports and places of anchorage treated of in the preceding article are: Genoa, and adjacent waters towards the shore of Foce; the gulf of Spezia, Leghorn; Portoferraj; Naples; Baja; Castellamare; Gaeta; Messina, (with the anchorages of Faro and Reggio in Calabria); Milazzo; Syracuse; Augusta; Palermo; Frapani; Taranto; Brindisi; Ancona; Cagliari; Island of Maddalena.

ARTICLE XIV. The local maritime authorities of the places mentioned in the preceding article shall, on the arrival of foreign vessels of war, present to their commanders, or commander of the squadron, a copy of the present regulations for their information, and request them to conform to them.

ARTICLE XV. All maritime authorities in the kingdom are expected to adopt strictly all the measures prescribed in the present decree, which shall take effect from the day of its publication in the various parts of the kingdom.

ARTICLE XVI. All dispositions at present in force, and which are contrary to those contained in the present decree, are hereby abrogated.

We command that this present decree, furnished with the great seal and registered at the court "*dei conti*," be inserted in the official collection of laws and decrees of the kingdom of Italy, desiring all it may concern to obey it and make it obeyed.

(Signed)

VITTORIO EMANUELE.

(Countersigned)

E. CUGIA.

TURIN, April 6, 1864.

EXTRACT FROM ITALIAN NAVAL CODE, CHAPTER VII—OF THE NEUTRALITY OF THE STATE TOWARD BELLIGERENT POWERS.

In case of war between powers towards which the state remains neutral, privateers, or vessels of war with prizes, shall not be received into the harbors or roadsteads, except in cases of stress of weather.

They will have to leave as soon as the danger has ceased.

No ship of war or privateer belonging to a belligerent will be allowed to remain longer than twenty-four hours in a port, harbor, or roadstead of the state, or in the adjacent waters, even when alone, except in cases of necessity arising from bad weather, of shipwreck, or of an absence of the means necessary to carry on the navigation with safety.

In no case will they be permitted, during their stay in the port, harbor, or roadstead of the state, to sell, exchange, or barter, or even give away, any of the prizes, (taken in war.)

The ships of war of a friendly power, even when belligerent, are permitted to touch or even to remain in any harbor, port, or roadstead of the state, on condition that the object of their mission be exclusively a scientific one.

In no case can a belligerent ship avail itself of an Italian port for the purposes of war, or of obtaining arms and munitions. It shall not be able, under the pretense of repairs, to execute any alterations or other works designed to augment its warlike force.

Nothing shall be furnished to vessels of war or to belligerent privateers beyond articles of food and commodities, and the actual means of repair necessary to the sustenance of their crews and the safety of their navigation.

Vessels of war or belligerent privateers wishing to fill up their stores of coal cannot be furnished with the same before twenty-four hours after their arrival.

In the case in which vessels of war, whether privateers or merchantmen of the two belligerent nations, are both together in a port, harbor, or roadstead of the state, there shall be an interval of at least twenty-four hours between the successive departures of the vessels of one belligerent and those of the vessels of the other.

This interval can be increased according to the circumstances brought before the maritime authorities of the place.

The capture of prizes, as well as any other act of hostility between two belligerent ships within the territorial waters or the adjacent waters of the islands of the state, will constitute a violation of territory.

THE NETHERLANDS.

[Received from her Majesty's legation at the Hague.]

NOTE FROM THE MINISTER FOR FOREIGN AFFAIRS TO HIS MAJESTY'S CHARGÉ D'AFFAIRES.

[Translation.]

THE HAGUE, March 6, 1867.

Mr. Ward's note of the 16th instant, asking information for his government about the laws, regulations, and other means that the Netherlands may use to prevent violation of neutrality within her borders, has been received.

In reply, the undersigned informs Mr. Ward that there is no code of laws or regulations in the kingdom of the Netherlands concerning the rights and duties of neutrals, nor any special laws or ordinances for either party, on this very important matter of external public law. The government may use articles 84 and 85 of the penal code; but no legislative provisions have been adopted to protect the government, and serve against those who attempt a violation of neutrality.

It may be said that no country has codified these regulations and given them the force of law; and though Great Britain and the United States have their foreign enlistment act, its effect is very limited. The Netherlands government has not yet thought proper to collect the regulations in relation to the rights and duties of neutrality; but has always scrupulously observed the principles of the European law of nations, and have published notices (as Great Britain and France did in 1861) to Netherland subjects not to carry dispatches or articles contraband of war, nor to break an effective blockade, nor to engage in privateering, nor accept letters of marque.

The admission of belligerent ships of war into our ports was regulated in the same manner, and the special instructions sent to our colonial governors, during the civil war in the United States, were communicated to the British legation on the 17th December, 1861.

Those notices were more extensive and precise last year. The government undertook to prevent the equipment of war vessels for belligerents in her ports. A copy of the Official Gazette, March 20, 1866, containing those notices, is hereto annexed.

Articles 84 and 85 of the penal code may be used as coercive measures to prevent violations of neutrality. For example, they might serve to prosecute those attempting to equip or sell vessels of war in our ports, for the benefit of belligerents. The vessels could then be seized as evidence, and their departure be thus prevented.

The undersigned requests Mr. Ward to communicate this to his government, and begs him to let this government know what articles are considered contraband of war by the cabinet at London.

Yours, &c.,

DE ZEYLEN DE NYEVELT.

TRANSLATION OF PROCLAMATION—MINISTRY OF FOREIGN AFFAIRS.

As war is now existing between Brazil (in league with the Argentine Republic and Uruguay) and Paraguay, as well as between Spain and Chili, while Peru has declared war against Spain, the minister of foreign affairs and the minister of justice are empowered by the King to advise by these presents all inhabitants of this kingdom by no means to meddle with privateering, and to accept no foreign letters of marque. Should Netherlanders, who practice any such privateering business or lend a hand in it, be pursued before the Dutch authorities, the affairs of such people will be treated as criminally hostile, and will receive the punishment awarded by the law.

The above-mentioned ministers,

E. CREMERS.
PICKÉ.

THE HAGUE, March 17, 1866.

In consequence of the commands of the King, the ministers of foreign affairs, of justice, and of marine, bring to the knowledge of all whom it may concern that, for the preservation of a complete neutrality during the war between the powers mentioned in the previous amendment, the following determinations have been resolved upon:

ARTICLE I. No ships of war or privateers belonging to one of the belligerent powers, with prizes, shall be allowed to come into Dutch harbors or estuaries, or remain there to refit, unless they are overtaken by evident necessity, such as misfortune at sea or want of provisions. They shall, moreover, so soon as the cause which delayed them be overcome, go on their way as speedily as possible.

ART. II. Proclaiming prizes, the selling, bartering, or giving away of all prizes and of objects coming out of them, also of plundered goods, is forbidden in the harbors or estuaries of the Netherlands. It is also forbidden to unrig and sell ships of war or cruisers of the belligerent parties, also privateers, (so far as these are admitted,) unless

the government in ordinary circumstances gives judgment that the sale can take place without danger to the neutrality of the state.

ART. III. Privateers, even without prizes, are not admitted into Dutch harbors and estuaries, except in the cases specified in Article I. The conclusion of that article is also applicable to this one.

They must take in no more provisions than they require for immediate use, of coal hardly as much as is necessary to supply their wants for twenty-four hours.

ART. IV. The ships of war of the belligerent parties, provided they submit to the international regulations for their admission into neutral ports, may remain for unlimited time in Dutch harbors and estuaries; they may also provide themselves with an unlimited quantity of coal.

The government, however, reserves to itself the right, whenever it is thought necessary for the preservation of neutrality, to limit the duration of such stay to twenty-four hours.

ART. V. When ships of the belligerent parties (either ships of war, cruisers, or merchantmen) find themselves at the same time in the same harbor to refit, or in the inner waters of the country, a period of at least twenty-four hours must elapse between the departure of a ship of one belligerent party and the following departure of a ship belonging to another belligerent.

This period of time may be lengthened, according to circumstances, by the maritime authorities of the harbors.

ART. VI. It is forbidden to furnish to the ships of war of either of the belligerent parties weapons or ammunition, as well as to aid in any way to the increase of his weapons or accouterments.

The above-named ministers,

E. CREMERS.
PICKÉ.

THE HAGUE, *March 17, 1866.*

The minister of war, charged ad interim with the department of marine.

J. W. BLANKEN.

The minister of foreign affairs thinks it his duty, in consequence of the war existing between the above-mentioned powers in South America, to call the attention of ship-owners, manufacturers, and freighters, to the dangers and difficulties to which they expose themselves if, putting themselves in opposition to their duties to the neutral powers, they do not respect an actual blockade, or transport contraband of war, soldiers, or dispatches intended for one of the belligerents.

In these circumstances the parties concerned will be exposed to all results proceeding herefrom, without any protection or intervention from the Netherland government, whatever claims they may make.

Also, the government will keep strict watch against the fitting out in this country of armed ships on behalf of the belligerent parties, or the taking part therein by Netherlanders.

The above-named minister,

E. CREMERS.

THE HAGUE, *March 17, 1866.*

[Translation.]

ARTICLES 84 AND 85 OF THE PENAL CODE, (NAPOLEON,) BOOK III, TITLE I.

ART. 84. Whoever exposes the state to a declaration of war, by hostile acts not approved by the government, shall be punished by banishment, and, if war ensues, by deportation.

ART. 85. Whoever exposes Frenchmen to reprisals, through acts not approved by the government, shall suffer banishment.

PORTUGAL.

LISBON, *February 28, 1867.*

MY LORD; In reply to your lordship's dispatch marked circular, of the 14th instant, instructing me to procure information respecting the neutrality laws in Portugal, I have the honor to state to your lordship that I have this day received from the Portuguese minister a note, of which a copy, together with a translation by Mr. Duff, is herewith transmitted. Your lordship will perceive that its information is restricted to furnishing me with copies of the Portuguese declarations of neutrality, which are already in the possession of her Majesty's government.

I have, therefore, requested further information in a note, of which I beg also to inclose a copy, as to what are the laws, regulations, or any other means at the disposal of

the Portuguese government for preventing within their territory any acts which would be violations of the Portuguese neutrality laws as contained in the declarations of neutrality, which M. Cazal Ribeiro has transmitted to me.

I have the honor to be, &c.,

A. PAGET.

The Right Honorable LORD STANLEY, *M. P., &c., &c., &c.*

FOREIGN DEPARTMENT, LISBON,
February 25, 1867. (Received 26th.)

MOST ILLUSTRIOUS AND EXCELLENT SIR: I received the note which your excellency was pleased to address to me on the 19th instant, wherein you inform me that inasmuch as her Majesty's government had appointed a commission to inquire into the neutrality laws in England, and were desirous to obtain information respecting the laws, regulations, or any other measures that may have been adopted in other countries upon this subject, they had instructed your excellency to point out to them what were the laws and regulations of Portugal for the purpose of preventing, within the Portuguese territory, any acts that might be considered to be a violation of the laws of neutrality.

And as your excellency requested me to forward to you copies of the laws and regulations to which you refer, as well as any other information that I might be able to furnish upon this point, I have the honor to state to your excellency that, as Portugal professes the most liberal principles with regard to neutrality, and as it is desirous to co-operate towards the consolidation of those principles, and the securing of the freedom of the maritime trade and navigation of neutral powers, it did not hesitate, so far back as the year 1782, to accede to the declaration made by Russia on the 28th of February, 1780, to several powers, and to agree in the convention entered into with that empire, on the 12th of July of the above-mentioned year of 1782, to identical principles with those which are laid down in the second, third, and fourth articles of the declaration of the congress of Paris of the 16th of April, 1856, on maritime law, declaration to which Portugal fully and entirely adhered, because it was in accordance with the doctrines which it has for so many years professed with regard to neutrality.

Before the adhesion of Portugal to the declaration of the 16th of April, 1856, to which I allude, and at the time of the eastern question, the decree of the 5th of May, 1854, (of which a copy is inclosed,) was published in order that the most strict and absolute neutrality should be observed in this kingdom in regard of those powers which were then in a state of war.

On the 29th of July, 1861, the Portuguese government being desirous, under the circumstances which then occurred with respect to the United States of America, to enforce a compliance with the principles set forth in the declaration of Paris of the 16th of April, 1856, published the decree of that date, of which I also forward the inclosed copy to your excellency.

Finally, by the decree of the 2d of July, 1856, on the occasion of the breaking out of the war between Italy and Austria, as well as between Russia, that empire and other states of Germany, and of which a copy was sent to the several chiefs of missions of Portugal in order that they should communicate the provisions contained therein to the government to which they were accredited, your excellency will see what are the neutrality laws now in force in Portugal.

I avail myself, &c.,

CAZAL RIBEIRO.

Sir A. PAGET, *&c., &c., &c.*

BRITISH LEGATION, LISBON,
February 26, 1867.

M. LE MINISTRE: I have the honor to acknowledge the receipt of your excellency's note of yesterday's date respecting the neutrality laws of Portugal, and to thank your excellency for the documents with which you have been good enough to furnish me.

There is one point, however, upon which her Majesty's government are most desirous of information, to which your excellency's note and the inclosures it contains do not refer, namely, what laws or regulations, or any other means, are at the disposal of the Portuguese government for preventing within its territory any acts which would be violations of the Portuguese neutrality laws, as contained in the declarations of neutrality which your excellency has transmitted to me. If your excellency would supply me with this information, I should be greatly obliged.

I avail myself, &c.,

A. PAGET.

H. E. M. CAZAL RIBERIO.

LISBON, *March 29, 1867.*

MY LORD: With reference to my dispatch of the 26th ultimo, I have the honor to transmit to your lordship a copy, with translations by Mr. Duff, of a further note which

I have received from the Portuguese minister respecting the neutrality laws and their enforcement in Portugal.

I have the honor to be, &c.,

A. PAGET.

The Right Honorable LORD STANLEY, *M. P.*, *Esq.*, *Esq.*

FOREIGN DEPARTMENT, LISBON,
March 18, 1867. (Received 22d.)

MOST ILLUSTRIOUS AND EXCELLENT SIR: I had the honor to receive the note which your excellency was pleased to address to me on the 26th of February last, requesting to be informed, in compliance with the wishes expressed by your government, what laws or means does the Portuguese government possess to enable it to prevent within its territory any acts of violation of neutrality.

In reply, it is my duty to state to your excellency that the laws and regulations in the matter are those which were inclosed in my note of the 25th of that month, or were mentioned in those documents, and the means of execution in the case of any violation of neutrality are—criminal proceedings, the use of force, complaints addressed to foreign governments, or any other means in order to meet some particular occurrence.

I avail myself, &c.,

CAZAL RIBEIRO.

Sir A. B. PAGET, *Esq.*, *Esq.*, *Esq.*

PRUSSIA.

[Received from her Majesty's embassy at Berlin.]

NOTE FROM THE MINISTER OF FOREIGN AFFAIRS TO HER MAJESTY'S EMBASSADOR.

BERLIN, *March 11, 1867.*

The undersigned has the honor to state, in reply to the note of Lord Loftus, &c., of the 15th ultimo, that the decrees contained in the Prussian code of laws for preventing, during the war between foreign states, acts on Prussian territory which could be construed as an infringement of neutrality, are partly direct and partly indirect.

A direct decree is contained in section 78 of the code of punishments of the 14th of April, 1851, by which hostile acts committed by a Prussian in his own country or abroad, or by a foreigner during his residence in Prussia, against a foreign state or its ruler, are punishable, if the same acts committed against the King of Prussia would be held to be high treason. But with respect to acts committed against non-German states, this decree is only enforced when reciprocity is guaranteed by public decrees or treaties.

The punishment consists in imprisonment in the house of correction for from two to ten years; but, under extenuating circumstances, in confinement for one to ten years. Should the intention be discovered before the act is carried out, confinement from six months to three years.

It is stated in section 61 of what nature these hostile acts must be to render them liable to punishment, viz., every attempt which has for its object:

1. To murder the King, to take him prisoner, to deliver him into the power of the enemy, or to render him incapable of governing; or,
2. Forcibly to alter the succession to the throne or the constitution of the state; or,
3. To incorporate, either entirely or partially, the territory of the Prussian state into a foreign state, or to separate a portion of territory from the whole.

Furthermore, in section 111, whoever enlists or causes the enlistment of a Prussian in a foreign military service will be punished with imprisonment for from three months to three years. The attempt to commit this act will be punished in the same manner.

Under the head of indirect preventive measures against breach of neutrality come all those laws which enable the government generally to oppose the maturing of acts of violence within the territory of the state. The following clauses of the book of the penal code apply to this:

§ Whoever assembles or commands armed bodies of men without authority, or who furnishes with arms or the necessaries of war a body of men whom he knows to be assembled without the permission of the law, will be punished with imprisonment not exceeding two years.

Whoever takes part in such armed meeting has rendered himself liable to imprisonment for a term not exceeding one year.

§ 340.

2. Whoever secretly, or in defiance of the authorities, stores up arms or ammunition, it not being his trade, will be punished with a fine of 50 Rthls., or six weeks' imprisonment. In these cases a confiscation of the stores takes place.

The undersigned, &c., for the minister of foreign affairs,

THILE.

RUSSIA.

ST. PETERSBURG, *August 29, 1867.*

MY LORD: With reference to your lordship's dispatch circular of February 14, instructing me to ascertain and report what laws, regulations, and other means the Russian government possess for preventing acts within its territories of which belligerents might complain as a violation of the duties of neutrality, I have the honor to inclose a copy of a note which I have received from M. de Westmann, stating that with the exception of article 259 of the Russian penal code, which forbids Russian subjects to afford military succor to any power in a state of war with a government allied to that of Russia, there are no laws existing in this country of the nature alluded to in your lordship's dispatch. A translation of the article of the penal code referred to is inclosed.

I have, &c.,

ANDREW BUCHANAN.

The LORD STANLEY, M. P., &c., &c., &c.

[Translation.]

ST. PETERSBURG, *April 16, (28,) 1867.*

MR. EMBASSADOR: In reply to your note of the 26th February, I have the honor to inform you that, with the exception of article 259 of the penal code of the empire, which forbids Russian subjects to afford military succor to any power in a state of war with a government allied to that of Russia, there are no laws for preventing acts of which belligerents might complain as violations of neutrality.

Yours, &c.,

WESTMANN.

[Translation.]

§§ 259.—PENAL CODE OF RUSSIA.

If any Russian subject in time of peace shall by open force attack the inhabitants of a neighboring state or those of any other foreign country, and shall thereby subject his own country to the danger of a rupture with a friendly power, or even to an attack by such foreign subjects on the territory of Russia, for such a crime against international law the offender, and all those who participate voluntarily in his enterprise with a knowledge of its objects and illegality, shall be sentenced to lose all their civil rights, and be condemned to hard labor in a fortress for a term of eight to ten years.

SPAIN.

[Received from her Majesty's legation at Madrid.]

NOTE FROM THE MINISTER FOR FOREIGN AFFAIRS TO HER MAJESTY'S MINISTER.

[Translation.]

PALACE, *February 22, 1867.*

SIR: I have received the note which your excellency addressed to me on the 17th instant, requesting, in the name of your government, a copy of the laws and regulations in force in the Peninsula concerning neutrality.

In this matter Spain has always adapted herself to the principles of international right, and solely on the occasion of the late war in the United States did her Majesty's government issue a decree on the neutrality to be observed by Spanish subjects during that contest.

Of that document (the only one existing on the subject) a copy has been made, which I have the honor to transmit to your excellency in answer to your above-mentioned note.

I avail, &c.,

E. D. CALONGE.

H. B. M. MINISTER Plenipotentiary.

[Translation.]

ROYAL DECREE CONCERNING NEUTRALITY IN THE UNITED STATES WAR, ISSUED BY HER CATHOLIC MAJESTY, ON THE 17TH JUNE, 1861.

Taking into consideration the relations which subsist between Spain and the United States of America, and the propriety of causing no detriment to the reciprocal senti-

ments of good understanding on account of the grave events which have happened in that republic, I have resolved to maintain the strictest neutrality in the contest entered into between the Confederate States of the South and the Federal States of the Union; and in order to avoid the prejudice which might result to my subjects and to navigation and commerce in consequence of the want of clear dispositions by which to regulate their conduct, in accordance with my council of ministers, I decree the following:

ARTICLE 1. The fitting out, supplying, and equipment of any privateer in any of the ports of the monarchy is prohibited, whatever may be the flag which she may hoist.

ART. 2. The proprietors, masters, or captains of merchant vessels are also prohibited from receiving letters of marque, and from contributing in any way to the armament and equipment of vessels of war or privateers.

ART. 3. Ships of war or privateers with prizes are prohibited from entering and remaining for more than twenty-four hours in the ports of the monarchy, except in the case of forced arrival.

When the latter shall occur, the authorities shall watch the ship, and shall oblige her to put to sea as soon as possible, without permitting her to supply herself with anything more than that which is necessary for the moment, but under no circumstances with arms or with munitions of war.

ART. 4. Articles taken from prizes shall not be sold at the ports of the monarchy.

ART. 5. The transport of all articles of commerce under the Spanish flag is guaranteed, except when intended for the blockaded ports.

The carrying of effects of war and of papers or communications for the belligerents is prohibited. Contraveners will be responsible for their own acts, and will have no right to the protection of my government.

ART. 6. All Spaniards are prohibited from enlisting in the belligerent armies, and from engaging themselves for service in vessels of war or privateers.

ART. 7. My subjects will abstain from any act which, by violating the laws of the kingdom, might be considered contrary to neutrality.

ART. 8. Contraveners of the above orders will have no right to the protection of my government; they will suffer the consequences of the measures taken by the belligerents, and will be punished according to the laws of Spain.

SWEDEN.

[Received from her Majesty's legation at Stockholm.]

NOTE FROM THE MINISTER FOR FOREIGN AFFAIRS TO HER MAJESTY'S MINISTER.

[Translation.]

STOCKHOLM, *February 23, 1867.*

SIR: In answer to your note of the 19th instant, I have the honor to inform you that the dispositions of the declaration of the Paris Congress of the 16th April, 1856, and of the annexed ordinance of 8th April, 1854, are the only laws now in force on matters of neutrality; and it is a principle with us that, where there is no law or positive fact to regulate the rights and duties of neutrals in time of war, the rules or principles in general use among nations must find application.

MANDERSTRÖM.

Mr. JERNINGHAM, *fr., fr., fr.*

[Translation.]

ROYAL ORDINANCE RELATING TO WHAT MUST BE OBSERVED FOR THE PROTECTION OF THE COMMERCE AND NAVIGATION OF SWEDEN IN TIME OF WAR BETWEEN FOREIGN POWERS.

[Issued at Stockholm the 8th April, 1854.]

We, Oscar, by the grace of God King of Sweden and Norway, of the Goths and Vandals, hereby make known—

That, recognizing the necessity, in prospect of threatened collision between foreign maritime powers, for those of our faithful subjects engaged in commerce and navigation to observe strictly the obligations and precautions requisite to secure to the Swiss flag all the rights and privileges of neutrals, and also to avoid every act that might arouse the suspicion of belligerent powers and subject us to insult, we have thought proper to ordain, in reference to what has been already enacted on the subject, that the following rules be hereafter generally observed:

1. To enjoy the rights and privileges due to the Swedish flag as a neutral, every Swedish vessel must have on board the documents required by existing ordinances (see royal ordinances 1st March, 1841, and 15th August, 1851) to prove its nationality, and these documents must be on board during every voyage.

2. Captains are positively forbidden to have duplicate or false papers or bills of lading on board, and to hoist any foreign flag, on any occasion or pretext whatever.

3. If the crew of a Swedish vessel, while abroad, is diminished so as to not have enough left to work it, a complement must be taken from neutrals; but in no case shall the portion of the crew taken from belligerents exceed one-third. Every change of this kind, with causes for it, shall be noted on the crew-list, and be certified by the Swedish consul or vice-consul, or, those wanting, by the mayor or a notary public, according to the usages of the country.

4. Swedish vessels, as neutrals, may freely navigate in the ports and on the coasts of nations at war; but they must not attempt to enter a blockaded port, if notified of such a condition by the commanding officer of the blockade.

By a blockaded port is understood one so closed by many war vessels, stationed so near to each other that no vessel can pass without evident risk.

5. All sorts of goods, even belonging to the belligerents, may be freely carried on neutral Swedish vessels, with the exception of articles contraband of war. The following articles are contraband of war: cannons, mortars, arms of all kinds, bombs, grenades, bullets, flints, matches, powder, niter, sulphur, shields, pikes, belts, cartridge-boxes, saddles and bridles, as well as everything used in war; excepting, of course, the quantity of such material as may be necessary to defend the vessel.

6. Every Swedish captain is prohibited from using his vessel to carry dispatches, troops, or munitions of war, for belligerents; and if forced to do so, he shall make a formal protest against such force.

7. Vessels of belligerent powers may import or export to or from Swedish ports all sorts of produce or goods not contraband of war.]

8. Every Swedish vessel is forbidden to arm or equip vessels to cruise against any belligerent power, their subjects or property, or to take part in any ships for that purpose. They are also forbidden to accept service on board privateers.

9. No privateer shall be allowed to enter a Swedish port, nor to hover on the coast. No prizes shall be brought into Swedish ports, unless from stress of weather. Our subjects are also forbidden to buy captured goods from privateers.

10. When a captain without escort is met at sea by a war vessel of a belligerent, he must show his papers, and not conceal any or throw them overboard.

11. When merchant vessels are escorted, their captains must conform to the royal ordinance of the 10th June, 1852.

12. The captain who observes the above regulations enjoys a free navigation by the law of nations; and if he is molested, he must appeal to our ministers and consuls abroad for redress and damages. The captain who neglects them does so at his own risk, and forfeits our protection.

13. In case a Swedish ship is seized, the captain must make a certified report of the seizure to his consul or vice-consul, at the port where he is carried, or to the nearest consul or vice-consul.

We command and order all persons interested to conform to the above regulations. In faith whereof, we have signed the present with our hand, and have affixed our royal seal thereto.

Done at the palace of Stockholm, on the 8th of April, 1854.

OSCAR. [L. S.]

J. F. FAHRÆUS.

UNITED STATES.

WASHINGTON, February 18, 1867.

MY LORD: I have the honor to acknowledge the receipt of your lordship's telegram of the 14th instant, inquiring what laws, regulations, or other means the United States government possesses for the prevention of acts within their territories of which belligerents might complain as violating duties of neutrality.

The only law on the subject is the neutrality act of 1818. In the accompanying volume of Brightley's Digest I have marked the law. In the foot-notes your lordship will find the principal cases which have been decided in the courts of the United States bearing upon the construction of the statutes.*

*NOTE.—The references here mentioned are the following:

(a) At end of sec. 1. "See 2 McLean, 2; 5 *Ibid.*, 250."

(b) Sec. 2, after words "If any person." "Foreign consuls are not exempted from the penal effects of the statute. A foreign minister who violates its provisions is liable to be summarily dismissed. 7 Opinions, 367." [N. B. The opinion here referred to is that of Caleb Cushing, which has been circulated among the commissioners.]

(c) In 2d sec., after the second "himself." "This act is declaratory of the pre-existing law of nations, and was intended to aid the Executive in the enforcement of that law. The '*Santissima Trinidad*,' 1 Brook, 7 Opinions, 367."

(d) In sec. 2, after word "Enlisted." "It is not a crime under this act to leave this country with intent to enlist in foreign military service; nor to transport persons out of the country with their own

When a complaint is addressed to the government, of a vessel being fitted out in breach of the law, the matter is referred for investigation to the district court attorney (an officer of the federal government) in the State in which the vessel is situated. It is his duty to see that the law is respected, and it is incumbent upon him to receive and collect evidence, and to libel the ship if in his opinion the circumstances of suspicion are sufficient to warrant the institution of legal proceedings against her. He then reports the case to the government, who decide either in proceeding with the libel or on releasing the vessel. In the latter event it is in the power of the government to call upon the owners to give bonds in double the value of the vessel not to employ her for illegal purposes. This course is pursued where the evidence shows grounds for suspicion, but when the grounds are not strong enough to warrant a prosecution with a view to forfeiture. Mr. Bemis, in a pamphlet on the neutrality laws, states that the bonds only affect the owners so long as the vessel remains in their possession, and he seems to be of the opinion that in the event of a *bond fide* sale, and of her subsequent employment as a cruiser or privateer against a friendly power, it would not be found possible to enforce the penalty against the original owners.

I inclose a newspaper extract with reference to the proceedings against a steamer called the R. R. Cuyler, which will show the manner in which the government acts. In this case the attorney general directs that the libel be dismissed, and the vessel restored to the owners on their executing a bond as required by statute.

Though there are no specific regulations in force as to the mode in which the law is to be carried out, I apprehend it may be inferred that this government would consider any circumstances of suspicion attending the fitting out or equipment of a ship as sufficient to warrant her detention until the case can be investigated by the district attorney. It is not necessary that the allegations should be of such gravity as, if proved, would warrant her forfeiture. The owners may be compelled by law to give a bond previous to the sailing of an armed vessel, to guard against the possibility of her being employed against a friendly power should war exist between two countries at peace with the United States. And a similar bond can be exacted, under certain contingencies mentioned in the statute, from the owners of any vessel built for warlike purposes and laden with war material.

It is to be presumed that these provisions are intended to apply to cases of war ships fitted out during time of war, where no direct evidence appears of illegal intent, but where the government thinks it advisable to call upon the owners to find security for keeping the peace. In order to effect this object it is evident that a wide discretion must be left to the government for the exercise of the power of detention.

I may remark that the government of the United States has considerable advantages in proceeding against vessels under the statute. They have on the spot where the preparations are being made the district attorney, a legal officer responsible to the government, to whom the duty of investigation is committed. The libel is in the nature of a proceeding in admiralty "*in rem*." It is decided by a judge conversant with international and maritime law, and without the intervention of a jury. The failure of the attempt to stop or punish the persons engaged in the expeditions against Cuba, and the suspension of proceedings against the men who took part in the Fenian raids against the British Provinces, in spite of the clearest evidence, shows the difficulty of enforcing the law when it has to be put in operation "*in personam*," and when it is dependent on the verdict of a jury.

I have, &c.,

FREDERICK W. A. BRUCE.

The LORD STANLEY, M. P., &c., &c., &c.,

consent who have an intention of so enlisting. To constitute a crime under this statute such persons must be hired or retained to go abroad with the intent of such enlisting. *United States v. Karinski*, 8 Law Reports, 254. See 4 Opinions, 336."

(e) In sec. 3, after the first "arm." "Either will constitute the offense; it is not necessary that the vessel should be armed, or in a condition to commit hostilities on leaving the United States. *United States v. Quincy*, 6 Pet., 445. See 3 Opin., 738, 741."

(f) In sec. 3, after the word "armed." "See *United States v. Guinet*, 2 Dall. 328."

(g) In sec. 3, after words "with intent." "Any degree of intent to commit hostilities against a nation with which this government is at peace is sufficient. 5 Opin., 92. But there must be a fixed intention that the vessel should be so employed; a mere wish so to employ her, if he could obtain funds on her arrival at a foreign port for the purpose of arming her, is not sufficient to render the defendant guilty. *United States v. Quincy*, 6 Pet., 445; *Moodie v. The Alfred*, 3 Dall., 307. But the fact that the arms and ammunition were cleared out as cargo, and the men shipped as for a common mercantile voyage, will not vary the case. *The Gran Para*, 7 Wheat., 486."

(h) In sec. 3, after word "people." "*United States v. Quincy*, 6 Pet., 467."

(i) In sec. 5, after first "vessel." "As to what amounts to the augmentation of the force of a foreign armed vessel within our ports, see *United States v. Grassie*, 3 W. C. C., 65; the schooner *Nancy*, Bee., 73; *Moodie v. The Ship Brothers*, *Ibid.*, 76; *Moodie v. The Betty Cathcart*, *Ibid.*, 292; *United States v. Guinet*, 2 Dall., 328; 3 Opin., 96."

(k) In sec. 6, after first "United States." "It is unimportant that such association originated beyond seas, if the expedition was carried on from hence. Ex parte Needham, Pet. C. C., 487."

(l) In sec. 6, after words "means for." "See 5 McLean, 250, 306; 2 Wheat. Cr. Cas., xlviii; 3 *Ibid.*, 174."

THE STEAMER R. R. CUYLER—CONSPIRACY ON BOARD TO ASSUME CONTROL OF THE VESSEL AT SEA—THE OWNERS NOT CULPABLE—THE VESSEL TO BE BONDED.

NEW YORK, *February 15.*

The suspicion that the steamship R. R. Cuyler was intended for a piratical enterprise appears, from facts which have come to light since the seizure by the government, to have been well founded. The theory advanced, which there is no grounds for doubting, is, that there was a conspiracy on board to assume control of the vessel after she had gone to sea, and thus deprive the lawful owners of their property, who were not to receive their pay for her until she was delivered at Laguayra, Venezuela, to the Colombian government. Whatever may have been intended by the extraordinary personages on board, and however they may have intended to execute their plans, are matters no longer to be regarded with alarm, as the party has been dispersed, and the owners required to file bonds in twice the value of the vessel that she shall not be used by them to commit hostilities against any nation with which this government is at peace. This is sufficiently set forth in the following letter, received by Collector Smythe from the Secretary of the Treasury yesterday:

ORDER TO THE COLLECTOR.

TREASURY DEPARTMENT, *February, 1867.*

SIR: I transmit herewith a copy of the letter of this date from the Attorney General of the United States at New York to the United States district attorney at New York, relative to the steamship R. R. Cuyler. You are hereby instructed to carry out the decision of the President, to release the R. R. Cuyler to the owners, upon being advised in writing by the United States district attorney that the required bond has been given and the proceedings in court dismissed.

Very respectfully,

H. McCULLOCH,
*Secretary of the Treasury.*H. A. SMYTHE,
Collector of Customs, New York.

The following is a copy of the letter of the Attorney General:

THE ATTORNEY GENERAL'S LETTER.

ATTORNEY GENERAL'S OFFICE, *February 13, 1867.**In re steamship "R. R. Cuyler."*

SIR: The President has had under his consideration the case of the steamship R. R. Cuyler, now detained at the port of New York under a seizure made by the customs officers, and a libel filed by you on or about the 5th of the current month, for alleged infraction of our neutrality laws.

The decision of the President had thereon is that such circumstances are shown as to require bond and security to be given by the owners, Messrs. Sturges, Taylor, Hubbell & Dollard, according to the provisions of the 10th and 11th sections of the act of April 20, 1818, entitled, "An act in addition to the act for the punishment of certain crimes against the United States, and to repeal the acts therein named."—3d vol. Statutes at Large, p. 447.

You are accordingly instructed that, upon the entering and delivery to you of such bond to the United States, with sufficient sureties, prior to the clearing of the vessel, in double the amount or the value of the vessel and cargo on board, including her armament, conditioned that the vessel shall not be employed by such owners to cruise or commit hostilities against the subjects, citizens, or property of any foreign prince or state, or of any colony, district, or people with whom the United States are at peace, as provided by the said 10th section, you will dismiss the proceedings so instituted.

Instructions will be sent to the collector of the port by the Secretary of the Treasury for the release of the vessel to her owners, when you advise them that the bond has been given and the proceedings in court have been dismissed.

I am, very respectfully, &c.,

HENRY STANBERRY,
*Attorney General.*SAMUEL G. COURTNEY, Esq.,
U. S. District Attorney, New York City.

CASE OF THE R. R. CUYLER—ALLEGED CONSPIRACY OF AN EX-REBEL CAPTAIN AND CREW TO TURN THE VESSEL INTO A CHILIAN PRIVATEER—BONDS REQUIRED BY THE GOVERNMENT.

[From the New York Post.]

The steamship R. R. Cuyler, seized some time ago by the customs authorities of this port, and held for examination on a charge that she was destined for an illegal voyage, is still in the hands of the officers, but the former owners and claimants of the vessel are confident she will soon be released. The theory that there was a conspiracy on board to take her from the owners, who were not, it is declared, to get their pay for her, or all of it, till she should be delivered at Laguayra, Venezuela, to the Colombian government, is now, it appears, fully accepted, and it goes into the case as part of the matter which the Attorney General will consider when he decides whether the R. R. Cuyler ought to be held to await the action of the courts with a view to her condemnation if the charges should be sustained.

This theory is founded on information already partially given to the public. The evidence that the vessel was to become a Chilean privateer, or have some other illegal character, is considered complete; and her owners do not hesitate to admit that they would probably have lost her, except for the interference of the United States authorities. This avowal raises many interesting points about the fitting out of the Cuyler, which will be fully investigated if an examination is entered upon, but which otherwise may never be brought out.

What is now recognized as the important fact of the case is that the conspiracy was fully matured, and was to be executed by ex-rebels, who comprised the passengers of the vessel. It appears that the getting together of these men and the equipment of them, with the purchase of some war material, costing more than \$100,000, were the parts of the business about which the owners had no direct knowledge; and Read, the rebel officer who had charge of the numerous "passengers," only a part of whom it seems were on board the Cuyler at the wharf when she was ready to sail at the time of the seizure, was at the head of the piratical expedition. Exactly what was to be done with the Cuyler after she had left this port and was in the hands of the desperadoes who had been gathered to take possession of her, the representatives of the men whose interests were involved do not undertake to say.

These things in some respects explain, and in other respects complicate and mystify, the affair of the Cuyler. What influence they may have on the determination of the matter is a curious question. That the vessel, if she had been allowed to go, would have made a legal voyage, nobody asserts; nor is it likely that the government officers will urge that the American owners were guilty of complicity with the rebels, or with the persons, whoever they may have been, who furnished the means required at the beginning of the suspicious undertaking.

In a later edition the Post says:

"Collector Smythe has to-day received a letter from the Secretary of the Treasury directing that the steamship R. R. Cuyler be released when the owners of her give bonds to the government in double the amount of her value that she shall not be used by them to commit hostilities against any nation with which this government is at peace.

"If bonds are not given, and no new instructions come from Washington, proceedings for the confiscation of the vessel will go on. No intimation has yet been given as to what the course of the claimants will be."

DECLARATIONS AND NOTIFICATIONS.

The following declarations and notifications were issued by the several countries hereunder specified on the breaking out of the civil war in America:

FRANCE.

DECLARATION RESPECTING NEUTRALITY OF FRANCE DURING STRUGGLE IN AMERICA.

[Translation.]

PARIS, June 10, 1861.

The minister of foreign affairs has submitted to the Emperor the following declaration, which his Majesty has approved:

DECLARATION.

His Majesty the Emperor of the French, taking into consideration the state of peace which exists between France and the United States of America, has resolved to main-

tain a strict neutrality in the contest now pending between the government of the Union and the States that are attempting to form a distinct confederation.

In consequence, his Majesty, in view of article 14 of the Naval Ordinance of August, 1861; article 3 of the law of April, 1825; articles 84 and 85 of the Penal Code; 65 and others of the decree of the 24th of March, 1852; 313 and others of the Maritime Penal Code; and article 21 of the Code Napoleon, declares:

1. It shall not be lawful for any vessel of war or privateer of either of the belligerents to enter and remain with prizes in our ports or harbors more than twenty-four hours, unless in case of necessity.

2. No sale of prize goods shall take place in our ports or harbors.

3. It shall not be lawful for any Frenchman to accept a commission from either party to arm war vessels, or to accept letters of marque for privateering, or to take any part in equipping and arming a war vessel for either party.

4. Every Frenchman, in France or elsewhere, is forbidden to enlist or accept service in the army or navy, or in privateers of either belligerent.

5. Every Frenchman, residing in France or elsewhere, must refrain from any act against the laws of the empire or the law of nations that might be considered as an act hostile to one of the two parties, and contrary to the neutrality we have resolved to observe.

Violators of the prohibitions and recommendations contained in the present declaration shall be punished, if necessary, by the provisions of the law of the 10th of April, 1825, and by articles 84 and 85 of the Penal Code, and also be liable to prosecution by article 21 of the Code Napoleon, and articles 65 and onward of the decree of the 24th March, 1852, in relation to the navy, and by 313 *et sequens* of the Penal Code for the sea forces.

His Majesty moreover declares that every Frenchman who does not obey the present instructions cannot claim the protection of his government against any acts or measures that belligerents may exercise or decree.

NAPOLEON.

E. THOUVENEL,
Minister of Foreign Affairs.

PRUSSIA.

The minister of commerce issued the notification annexed to the mercantile classes in the Baltic ports:

"It is my duty to make known to you that during the continuance of the conflict that has broken out among the North American States the mercantile classes must abstain from all enterprises which are forbidden by the general principles of international law, and especially by the ordinance of the 12th of June, 1856, which has relation to the declaration of the 12th of April, 1856, upon the principles of maritime law. Moreover, I will not omit to make especially noticeable by you that the royal government will not permit to its shipping or its subjects, which may mix up in these conflicts by taking letters of marque, sharing in privateering enterprises, carrying merchandise contraband of war, or forwarding dispatches, to have the benefit of its protection against any losses which may befall them through such transactions.

"The equipment of privateers in the ports of this country is forbidden by the laws of the land, as is known to the mercantile community."

BELGIUM.

[Translation.]

Belgium has given its adhesion to the principles laid down in the declaration of the Congress of Paris of April 16, 1856. This adhesion was published, together with the said declaration, (6th June, 1856,) in the Belgian *Moniteur* of June 8, 1856.

The commercial public is notified that instructions on this subject have been given to the judicial, maritime, and military authorities, warning them that privateers, under whatever flag or commission, or letters of marque, are not to be allowed to enter our ports, except in case of imminent perils of the sea. The aforesaid authorities are charged, consequently, to keep a strict watch upon all such privateers and their prizes, and to compel them to put to sea again as soon as practicable.

The same authorities have been charged not to recognize the validity of any commission or letter of marque whatsoever.

All persons subject to the laws of Belgium who shall fit out or take any part in any privateering expedition will therefore expose themselves to the danger, on the one hand, of being treated as pirates abroad, and, on the other, to prosecution before Belgian tribunals with all the rigor of the laws.

RUSSIA.

To the commander-in-chief of the port of Cronstadt :

His Imperial Highness the general admiral, foreseeing the possibility of ships belonging to the southern States of the American Union, which have seceded from the United States of North America, arriving at our ports during the present navigation, has directed me to inform your excellency, for your guidance, that, according to the opinion of the minister of foreign affairs, the flag of men-of-war belonging to the seceded States must not be saluted.

That there may be no obstacle in the way of commerce, merchant vessels of the seceded States are to be treated according to the rules acted on by us with regard to Italian merchant vessels sailing under the Italian flag; i. e., according to the treaties that are at present in force, (commercial treaty concluded between America and us, December 1st, 1832.)

Should the crews of vessels belonging to the seceded States not wish to acknowledge the authority of the consuls appointed by the federal government of Washington, then, in case of dispute, they must abide by the decision of our local authorities, in the same manner as foreigners whose governments have no representatives in our empire.

General-Major GREIG,
Director of the Chancellery of the Minister of Marine.

CIRCULAR ADDRESSED TO THE CUSTOM-HOUSES ON THE WHITE, BALTIC, BLACK, AND AZOFF SEAS.

By order of the minister of finance, the department of foreign trade prescribes, in case any merchant vessels arrive in our ports belonging to the southern States of the American Union, the same not acknowledging the authority of the government of the United States of America, the said vessels are to be treated and received as hitherto, according to the treaty of 1832, should even their ships' papers not be in order, which may occur in consequence of the present political condition of the United States of America.

General-Lieutenant PASHKOFF,
Director of the Department of Foreign Trade.
SORNIN, *Chief of Section, &c.*

NETHERLANDS.

[Translation.]

AT THE HAGUE.

In obedience to the King's orders, the ministers for foreign affairs, of justice, and of the marine, present to the knowledge of all it may concern, that, to guard against probable difficulties during the doubtful complications in the United States of North America, no privateers under any flag soever, or provided with any commission or letters of marque, or their prizes, shall be admitted into our havens or seaports, unless in case of marine disaster, and that requisite orders be issued that under any circumstances such privateers and their prizes be required to go again to sea as speedily as possible.

The ministers above named.

[Translation.]

THE HAGUE.

The minister for foreign affairs and the minister of justice, by the King's authority, warn, by these presents, all inhabitants of the kingdom that, during the existing disturbances in the United States of America, they in no wise take part in privateering, because the Netherlands government has acceded to the declaration upon maritime rights set forth by the Paris conference of 1856, whereby, among other matters, privateering is abolished, and no recognition of commissions got for letters of marque permitted; also that commissions and letters of marque in conflict with the aforesaid prohibition, which may issue to inhabitants of the Netherlands, cannot have a lawful effect in behalf of the King's subjects or of any abroad who are in subjection to the laws of the kingdom. Those who, under such circumstances, engage in or lend their aid in privateering to other people, will be considered as pirates, and prosecuted according to law in the Netherlands, and subjected to the punishment provided for the commission of such offenses.

The ministers above named.

[Translation.]

THE HAGUE, June, 1861.

The minister for foreign affairs, apprised by a communication from the minister of marine that the King had authorized the naval force in the West Indies to be seasonably strengthened by his Majesty's steam-frigate Zealand and the screw-propellers Dyambi and Vesuvius, for the purpose of giving protection to the trade and navigation of the Netherlands during the contest which seems to be in existence in the United States of North America, wherever it may be desired, therefore esteems it to be his duty to direct the attention of shipmasters, consignees, and freighters to the peril to which their insurance against loss will be exposed by any violation of the obligations imposed on neutral powers to respect actual blockades, and not to carry contraband of war or dispatches of belligerents.

In these cases they will be subject to all the resulting losses that may follow, without the benefit of any protection or intervention on the part of his Majesty's government. Of which take notice.

The minister above named.

PORTUGAL.

[Translation.]

PALACE OF NECESSIDADES, July 29, 1861.

It being proper, in view of the circumstances at present existing in regard to the United States of America, to carry into effect the principles established in the declaration of Paris of April 16, 1856, made by the representatives of the powers that signed the treaty of peace of the 30th of March of that year, to which declaration my government acceded, and likewise for the same reason to adopt other measures which I deem opportune, I have been pleased, after hearing the council of state, to decree as follows:

ARTICLE 1. In all the ports and waters of this kingdom, as well on the continent and in the adjacent islands as in the ultramarine provinces, Portuguese subjects and foreigners are prohibited from fitting out vessels destined for privateering.

ARTICLE 2. In the same ports and waters referred to in the preceding article is, in like manner, prohibited the entrance of privateers and of the prizes made by privateers, or by armed vessels.

The cases of overruling necessity, (*força maior*), in which, according to the law of nations, hospitality is indispensable, are excepted from this regulation, without permission, however, being allowed, in any manner, for the sale of any objects proceeding from prizes.

The ministers and secretaries of state in all the departments will thus understand, and cause it to be executed.

KING.

Countersigned:

MARQUEZ DE LOULE.
ALBERTO ANTONIO DE MORAES CARVALHO.
VISCONDE DE SA DA BANDEIRA.
CARLOS BENTO DA SILVA.
THIAGO AUGUSTO VELLOSO DE HORTA.
ANTONIO JOSÉ D'ÁVILA.

HAWAIIAN ISLANDS.

PROCLAMATION OF THE KING OF THE HAWAIIAN ISLANDS DECLARING THE NEUTRALITY OF THE HAWAIIAN ISLANDS IN THE WAR BETWEEN THE UNITED STATES AND THE SO-CALLED CONFEDERATE STATES.

KAILUA, August 26, 1861.

Be it known to all whom it may concern that we, Kamehameha IV, King of the Hawaiian Islands, having been officially notified that hostilities are now unhappily pending between the government of the United States and certain States thereof styling themselves "the Confederate States of America," hereby proclaim our neutrality between the said contending parties.

That our neutrality is to be respected to the full extent of our jurisdiction, and that all captures and seizures made within the same are unlawful and in violation of our rights as a sovereign.

And be it further known, that we hereby strictly prohibit all our subjects, and all who reside or may be within our jurisdiction, from engaging, either directly or indirectly, in privateering against the shipping or commerce of either of the contending parties, or of rendering any aid to such enterprises whatever; and all persons so offending will be liable to the penalties imposed by the laws of nations, as well as by

the laws of said States, and they will in nowise obtain any protection from us as against any penal consequences which they may incur.

Be it further known, that no adjudication of prizes will be entertained within our jurisdiction, nor will the sale of goods or other property belonging to prizes be allowed.

Be it further known, that the rights of asylum are not extended to the privateers or their prizes of either of the contending parties, excepting only in cases of distress or of compulsory delay by stress of weather or dangers of the sea, or in such cases as may be regulated by treaty stipulation.

Given at our marine residence of Kailua, this 26th day of August, A. D. 1861, and the seventh of our reign.

By the King,

KAMEHAMEHA.

By the King and Kuhina Nui,

KAAHUMANU.
R. C. WYLLIE.

BREMEN.

ORDINANCE OF SENATE AGAINST PRIVATEERING, PUBLISHED JULY 4, 1861.

[Translation.]

The Senate finds it necessary, in regard to the events which have occurred in North America, to renew the regulations contained in its ordinance of April 29, 1854, and accordingly makes the following notification for general observance:

1. All subjects of the state of Bremen are forbidden, under severe penalties, both from meddling in any way with privateering and from taking part therein, either by fitting out privateers themselves, or contributing through others to the same.

2. The proper officers are ordered not on any account to allow the fitting out or provisioning of privateers, under whatever flag or carrying whatever letters of marque, in any port of the Bremen territory, nor to admit into a Bremen port any such privateers, or the prizes made by them, except in cases of proved stress of weather at sea.

Resolved at Bremen, in the assembly of the Senate, on the 2d, and published on the 4th of July, 1861.

HAMBURG.

ORDINANCE AGAINST PRIVATEERING.

[Translation.]

On the occasion of the events which have taken place in the United States of North America, the Senate reminds the public that, according to the notification of July 7, 1856, relative to the declaration of the Congress of Paris on the application of maritime law in time of war, privateering is entirely abolished; and therefore it is prohibited to engage in any way in privateering, or to take part in it either in fitting out privateers or by assisting others to do so. The proper orders have also been issued not to allow in Hamburg ports the fitting out or provisioning of privateers, under whatever flag or furnished with whatever letters of marque, and not to admit into Hamburg ports or roadsteads any such privateers, with or without prizes, except in cases of proved stress of weather at sea.

Given in the assembly of the Senate, Hamburg, July 19, 1861.

APPENDIX No. V.

BRITISH PROCLAMATIONS OF NEUTRALITY.

I.—SPAIN AND SPANISH AMERICA.

A proclamation prohibiting his Majesty's natural-born subjects from serving or enlisting, or entering themselves to serve, in the military forces or ships of war raised or set forth by the persons exercising or assuming to exercise the powers of government in certain provinces and parts of provinces in Spanish America, or in the military forces of his Catholic Majesty employed in Spanish America, or in his said Majesty's ships of war; 27th November, 1817.

GEORGE, P. R.:

Whereas there unhappily subsists a state of warfare between his Catholic Majesty and divers provinces or parts of provinces in Spanish America; and whereas it has been represented to us that many of our subjects have, without our leave or license, enlisted

or entered themselves to serve in the military forces or ships of war raised or set forth or intended to be raised or set forth by the persons exercising or assuming to exercise the powers of government in such provinces or parts of provinces, and that divers others of our subjects are about, in like manner, to enter and enlist themselves; and whereas such practices are highly prejudicial to, and tend to endanger the peace and welfare of our Crown and dominions; we do therefore hereby, by and with the advice of our privy council, strictly charge and command all and every of our natural-born subjects, of what degree or quality soever, not to serve in any such military forces or ships of war as aforesaid, and not to enlist or enter themselves to serve herein, and not to go beyond the seas, or embark in order to serve, or with intent to enter or enlist themselves to serve, in such military forces or ships of war; and it is at the same time our royal will and pleasure, and we do, by and with the advice aforesaid, hereby also strictly charge and command all and every of our said subjects not to serve or enlist, or enter themselves to serve, in any of the military forces or ships of war raised or set forth, or to be raised or set forth, by his Catholic Majesty, and not to go beyond the seas, or embark in order or to the intent to serve, or enter, or enlist themselves to serve in any such military forces or ships of war; it is, nevertheless, our royal will and pleasure that nothing herein contained shall be deemed or taken to prohibit any of our subjects who are engaged at the time of the date of this our proclamation in serving in the military forces of his Catholic Majesty, with our leave or license from continuing to serve therein, provided that such our said subjects do not serve with the military forces of his Catholic Majesty when employed in Spanish America; and we do hereby, by and with the advice aforesaid, strictly require all our said subjects duly to conform to our commands herein contained, under pain of our highest displeasure and the utmost forfeitures, penalties, and punishments to which by law they will otherwise be liable.

Given at our court at Brighton, the 27th day of November, 1817, in the 58th year of his Majesty's reign.

God save the King.

II.

British proclamation for putting in execution the law made to prevent the enlisting or engagement of his Majesty's subjects in foreign service, and the fitting out or equipping in his Majesty's dominions vessels for warlike purposes without his Majesty's license, 6th June, 1823.

GEORGE R.:

Whereas hostilities at this time exist between different states and countries in Europe and America, and it is his Majesty's determination to observe the strictest neutrality with respect to the states and countries engaged in such hostilities; and whereas his Majesty has been informed that attempts have been made to induce his Majesty's subjects to engage in such hostilities by entering into the military and naval service of some of the states and countries without his Majesty's leave or license;

And whereas, by an act made and passed in the 50th year of the reign of his late Majesty of blessed memory, intituled "An act to prevent the enlisting or engagement of his Majesty's subjects to serve in foreign service, and the fitting out or equipping, in his Majesty's dominions, vessels for warlike purposes, without his Majesty's license," it is, among other things, enacted "that if any natural-born subject of his Majesty," &c. (Second clause of the foreign enlistment act.)

And it is further enacted "That it shall and may be lawful for any justice of the peace * * * according to law for the said offense," (1st paragraph of the third clause of the foreign enlistment act.)

And it is further enacted "That in case any ship or vessel," &c., (5th clause of the foreign enlistment act.)

And it is further enacted "That if any master or person," &c., (6th clause of the foreign enlistment act.)

And it is further enacted "That if any person in any part of the United Kingdom," &c., (7th clause of the foreign enlistment act.)

And it is further enacted "That if any person in any part of the United Kingdom," &c., (8th clause of the foreign enlistment act.)

His Majesty, therefore, being resolved to cause the provisions of the said statute to be effectually put in execution, and being desirous that none of his Majesty's subjects should unwarily subject themselves to the penalties thereby inflicted, hath thought fit, by and with the advice of his privy council, to issue this his royal proclamation, and doth hereby strictly command that no person or persons whatsoever do presume to commit or attempt any act, matter, or thing whatsoever contrary to the provisions of the said statute, and the tone, intent, and meaning thereof, and that the said provisions of the said statute be punctually observed and kept, upon pain of the several penalties

by the said statute inflicted upon offenders against the same, and of his Majesty's high displeasure.

Given at our court at Carleton House this 6th day of June, 1823, and in the fourth year of our reign.

God save the King.

III.—GREECE AND TURKEY.

(30 September, 1825.)

GEORGE R.:

Whereas his Majesty, being at peace with all the powers and states of Europe and America, has repeatedly declared his royal determination to maintain a strict and impartial neutrality in the different contests in which certain of these powers and states are engaged;

And whereas the commission of acts of hostility by individual subjects of his Majesty against any power or state, or against the persons and properties of the subjects of any power or state, which being at peace with his Majesty is at the same time engaged in a contest with respect to which his Majesty has declared his determination to be neutral, is calculated to bring into question the sincerity of his Majesty's declaration;

And whereas, if his Majesty's subjects cannot be effectually restrained from such unwarranted commission of acts of hostility, it may be justly apprehended that the governments aggrieved thereby might be unable, on their part, to restrain their subjects from committing acts of violence upon the persons and property of unoffending subjects of his Majesty;

And whereas the Ottoman Porte, a power at peace with his Majesty, is and has been for some years past engaged in a contest with the Greeks, in which contest his Majesty has observed a strict and impartial neutrality;

And whereas great numbers of his Majesty's loyal subjects reside and carry on a beneficial commerce, and possess establishments, and enjoy privileges within the dominions of the Ottoman Porte, protected by the faith of treaties between his Majesty and that power;

And whereas his Majesty has received recent and undoubted information that attempts are now making to induce certain of his Majesty's subjects to fit out ships of war and privateers in the ports of his Majesty's kingdom, and to embark therein, for the purpose of carrying on, under the Greek flag, hostile operations against the Ottoman government, of capturing and destroying Turkish ships and property, and of committing depredations on the coasts of the Turkish dominions;

And whereas such hostile operations would be directly contrary to the provisions of the act passed in the 69th year of the reign of his late Majesty, (cap. 63,) intituled "An act to prevent the enlisting or engagement of his Majesty's subjects to serve in foreign service, and the fitting out or equipping, in his Majesty's dominions, vessels for warlike purposes without his Majesty's license," in which it is among other things enacted, "That if any natural-born subject," &c., (2d clause of the foreign enlistment act.)

And it is further enacted, "That if any person," &c., (7th clause of the foreign enlistment act.)

His Majesty, therefore, being desirous of preserving to his subjects the blessings of peace which they now happily enjoy, and being resolved to persevere in that system of neutrality which his Majesty has so repeatedly declared his determination to maintain, in order that none of his Majesty's subjects may unwarily render themselves liable to the penalties imposed by the statute herein mentioned, has thought fit, by and with the advice of his privy council, to issue this his royal proclamation.

And his Majesty does hereby strictly command that no person or persons whatsoever do presume to take part in any of the said contests, or to commit or attempt any act, matter, or thing whatsoever, contrary to the provisions of the said statute, upon pain of the several penalties by the said statute imposed, and of his Majesty's high displeasure.

And his Majesty, by and with the advice aforesaid, doth hereby enjoin all his Majesty's subjects strictly to observe, as well toward the Ottoman Porte and the Greeks as toward all other belligerents with whom his Majesty is at peace, the duties of neutrality, and to respect in all and each of them the exercise of those belligerent rights which his Majesty has always claimed to exercise when his Majesty has himself been unhappily engaged in war.

Given at our court at Windsor, the 30th day of September, 1825, and in the sixth year of our reign.

God save the King.

IV.—AUSTRIA, FRANCE, AND SARDINIA.

(May 13, 1859.)

BY THE QUEEN—A PROCLAMATION.

VICTORIA R.:

Whereas we are happily at peace with all sovereigns, powers, and states:

And whereas, notwithstanding our utmost exertions to preserve peace between all the sovereign powers and states now at war, hostilities have unhappily commenced between his Imperial Majesty the Emperor of Austria on the one part, and his Majesty the King of Sardinia and his Imperial Majesty the Emperor of the French on the other part;

And whereas a state of war now exists between his Imperial Majesty the Emperor of Austria on the one part, and his Majesty the King of Sardinia and his Imperial Majesty the Emperor of the French on the other part, and between their respective subjects and others inhabiting within their countries, territories, or dominions;

And whereas we are on terms of friendship and amicable intercourse with all and each of these sovereigns, and with their several subjects and others inhabiting within their countries, territories, or dominions;

And whereas great numbers of our loyal subjects reside and carry on commerce, and possess property and establishments, and enjoy various rights and privileges within the dominions of each of the aforesaid sovereigns, protected by the faith of treaties between us and each of the aforesaid sovereigns;

And whereas we, being desirous of preserving to our subjects the blessings of peace, which they now happily enjoy, are firmly purposed and determined to abstain altogether from taking any part, directly or indirectly, in the war now unhappily existing between the said sovereigns, their subjects and territories, and to remain at peace with and to maintain a peaceful and friendly intercourse with all and with each of them, and their respective subjects, and others inhabiting within any of their countries, territories, and dominions, and to maintain a strict and impartial neutrality in the said hostilities and war unhappily existing between them:

We therefore have thought fit, by and with the advice of our privy council, to issue this our royal proclamation.

And we do hereby strictly charge and command all our loving subjects to govern themselves accordingly, and to observe a strict neutrality in and during the aforesaid hostilities and war, and to abstain from violating or contravening either the laws and statutes of the realm in this behalf, or the law of nations in relation thereto, as they will answer to the contrary at their peril.

And whereas in and by a certain statute made and passed in the 59th year of his Majesty King George III, (cap. 69,) entitled "An act to prevent the enlisting or engagement of his Majesty's subjects to serve in a foreign service, and the fitting out or equipping, in his Majesty's dominions, vessels for warlike purposes without his Majesty's license," it is, among other things, declared and enacted as follows: "That if any person within any part of the United Kingdom," &c., (7th clause of the foreign enlistment act:)

And it is in and by the said act further enacted, "That if any person in any part of the United Kingdom," &c., (8th clause of the foreign enlistment act:)

Now, in order that none of our subjects may unwarily render themselves liable to the penalties imposed by the said statute, we do hereby strictly command that no person or persons whatsoever do commit any act, matter, or thing whatsoever contrary to the provisions of the said statute, upon pain of the several penalties by the said statute imposed, and of our high displeasure.

And we do hereby further warn and admonish all our loving subjects, and all persons whatsoever entitled to our protection, to observe toward each and all of the aforesaid sovereigns, their subjects and territories, and toward all belligerents whatsoever with whom we are at peace, the duties of neutrality; and to respect, in all and each of them, the exercise of those belligerent rights which we and our royal predecessors have always claimed to exercise.

And we do hereby further warn all our loving subjects, and all persons whatsoever entitled to our protection, that if any of them shall presume, in contempt of this our royal proclamation, and of our high displeasure, to do any acts in derogation of their duty as subjects of a neutral sovereign, in a war between other sovereigns, or in violation or contravention of the law of nations in that behalf, as more especially by breaking, or endeavoring to break, any blockade lawfully and actually established by or on behalf of any or either of the said sovereigns, by carrying officers, soldiers, dispatches, arms, ammunition, military stores or materials, or any article or articles considered and deemed to be contraband of war according to the law or modern usages of nations, for the use or service of any or either of the said sovereigns, that all persons so offending, together with their ships and goods, will rightfully incur, and be justly liable to, hostile capture, and to the penalties denounced by the law of nations in that behalf.

And we do hereby give notice, that all our subjects and persons entitled to our protection who may misconduct themselves in the premises will do so at their peril and of their own wrong; and that they will in nowise obtain any protection from us against

such capture or such penalties as aforesaid, but will, on the contrary, incur our high displeasure by such misconduct.

Given at our court, at Buckingham Palace, this 13th day of May, in the year of our Lord 1859, and in the 22d year of our reign.

God save the Queen.

V.—UNITED STATES.

(May 13, 1861.)

BY THE QUEEN—A PROCLAMATION.

VICTORIA R.:

Whereas we are happily at peace with all sovereigns, powers, and states;

And whereas hostilities have unhappily commenced between the government of the United States of America and certain States styling themselves the Confederate States of America;

And whereas we, being at peace with the government of the United States, have declared our royal determination to maintain a strict and impartial neutrality in the contest between the said contending parties:

We therefore have thought fit, by and with the advice of our privy council, to issue this our royal proclamation;

And we do hereby strictly charge and command all our loving subjects to observe a strict neutrality in and during the aforesaid hostilities, and to abstain from violating or contravening either the laws and statutes of the realm in this behalf, or the law of nations in relation thereto, as they will answer to the contrary at their peril.

And whereas, in and by a certain statute made and passed in the 59th year of his Majesty King George the III, intituled "An act to prevent the enlisting or engagement of his Majesty's subjects to serve in a foreign service, and the fitting out or equipping, in his Majesty's dominions, vessels for warlike purposes, without his Majesty's license," it is, among other things, declared and enacted as follows:

"That if any natural-born subject of his Majesty," &c., (2d clause of the foreign enlistment act:)

And it is in and by the said act further enacted, "That if any person within any part of the United Kingdom," &c., (7th clause of the foreign enlistment act:)

And it is in and by the said act further enacted, "That if any person in any part of the United Kingdom, &c., (8th clause of the foreign enlistment act:)

Now, in order that none of our subjects may unwarily render themselves liable to the penalties imposed by the said statute, we do hereby strictly command that no person or persons whatsoever do commit any act, matter, or thing whatsoever contrary to the provisions of the said statute, upon pain of the several penalties by the said statute imposed, and of our high displeasure.

And we do hereby further warn all our loving subjects, and all persons whatsoever entitled to our protection, that if any of them shall presume, in contempt of this our royal proclamation, and of our high displeasure, to do any acts in derogation of their duty as subjects of a neutral sovereign in the said contest, or in violation or contravention of the law of nations in that behalf; as for example, and more especially, by entering into the military service of either of the said contending parties as commissioned or non-commissioned officers or soldiers; or by serving as officers, sailors, or marines, on board any ship or vessel of war or transport of or in the service of either of the said contending parties; or by serving as officers, sailors, or marines on board any privateer bearing letters of marque of or from either of the said contending parties; or by engaging to go or going to any place beyond the seas with intent to enlist or engage in any such service, or by procuring or attempting to procure within her Majesty's dominions, at home or abroad, others to do so; or by fitting out, arming, or equipping any ship or vessel to be employed as a ship of war, or privateer, or transport, by either of the said contending parties; or by breaking or endeavoring to break any blockade lawfully and actually established by or on behalf of either of the said contending parties; or by carrying officers, soldiers, dispatches, arms, military stores or materials, or any article or articles considered and deemed to be contraband of war according to the law or modern usage of nations, for the use or service of either of the said contending parties, all persons so offending will incur and be liable to the several penalties and penal consequences by the said statute, or by the law of nations in that behalf imposed or denounced.

And we do hereby declare, that all our subjects and persons entitled to our protection who may misconduct themselves in the premises will do so at their peril and of their own wrong, and that they will in nowise obtain any protection from us against any liabilities or penal consequences, but will, on the contrary, incur our high displeasure by such misconduct.

Given at our court at the White Lodge, Richmond Park, this 13th day of May, in the year of our Lord 1861, and in the 24th year of our reign.

God save the Queen.

VI.—SPAIN AND CHILI.

(6th February, 1866.)

BY THE QUEEN—A PROCLAMATION.

VICTORIA:

Whereas we are happily at peace with all sovereigns, powers, and states; and whereas hostilities have unhappily commenced between the government of Spain and the government of the republic of Chili; and whereas we, being at peace with both the said governments, have declared our royal determination to maintain a strict and impartial neutrality in the contest between the said contending parties;

We therefore have thought fit, by and with the advice of our privy council, to issue this our royal proclamation.

And we do hereby strictly charge and command all our loving subjects to observe a strict neutrality in and during the aforesaid hostilities, and to abstain from violating or contravening either the laws and statutes of the realm in this behalf, or the law of nations in relation thereto, as they will answer to the contrary at their peril.

And whereas, in and by a certain statute made and passed in the 59th year of his Majesty King George the III, intituled "An act to prevent the enlisting or engagement of his Majesty's subjects to serve in a foreign service, and the fitting out or equipping, in his Majesty's dominions, vessels for warlike purposes, without his Majesty's license," it is, among other things, declared and enacted as follows:

"That if any natural-born subject of his Majesty," &c., (2d clause of the foreign enlistment act.)

And it is in and by the said act further enacted "That if any person within any part of the United Kingdom," &c., (7th clause of the foreign enlistment act.)

And it is in and by the said act further enacted "That if any person in any part of the United Kingdom," &c., (8th clause of the foreign enlistment act.)

Now, in order that none of our subjects may unwarily render themselves liable to the penalties imposed by the said statute, we do hereby strictly command that no person or persons whatsoever do commit any act, matter, or thing whatsoever, contrary to the provisions of the said statute, upon pain of the several penalties by the said statute imposed, and of our high displeasure.

And we do hereby further warn all our loving subjects, and all persons whatsoever entitled to our protection, that if any of them shall presume, in contempt of this our royal proclamation, and of our high displeasure, to do any acts in derogation of their duty as subjects of a neutral sovereign, in said contest, or in violation or contravention of the law of nations in that behalf, as for example and more especially, by entering into the military service of either of the said contending parties as commissioned or non-commissioned officers or soldiers; or by serving as officers, sailors, or marines, on board any ship or vessel of war or transport of or in the service of either of the said contending parties, or by serving as officers, sailors, or marines, on board any privateers bearing letters of marque of or from either of the said contending parties; or by engaging to go or going to any place beyond the seas with intent to enlist or engage in any such service; or by procuring or attempting to procure, within her Majesty's dominions, at home or abroad, others to do so; or by fitting out, arming, or equipping any ship or vessel to be employed as a ship of war, or privateer, or transport, by either of the said contending parties; or by breaking or endeavoring to break any blockade lawfully and actually established by or on behalf of either of the said contending parties; or by carrying officers, soldiers, dispatches, arms, military stores, or materials, or any article or articles considered and deemed to be contraband of war according to the law or modern usage of nations, for the use or service of either of the said contending parties, all persons so offending will incur and be liable to the several penalties and penal consequences by the said statute, or by the law of nations in that behalf imposed or denounced.

And we do hereby declare that all our subjects, and persons entitled to our protection, who may misconduct themselves in the premises, will do so at their peril, and of their own wrong; and that they will in nowise obtain any protection from us against any liabilities or penal consequences, but will, on the contrary, incur our high displeasure by such misconduct.

Given at our court at Osborne House, Isle of Wight, this 3d day of February, in the year of our Lord 1866, and in the 29th year of our reign.

God save the Queen.

VII.—SPAIN AND PERU.

(13th March, 1866.)

The same as the preceding, (Spain and Chili,) *mutatis mutandis*.

VII.—AUSTRIA, PRUSSIA, ITALY, GERMANY.

BY THE QUEEN—A PROCLAMATION

VICTORIA R.:

Whereas we are happily at peace with all sovereigns, powers, and states;

And whereas, notwithstanding our utmost exertions to preserve peace between all the sovereign powers and states now at war, hostilities have unhappily commenced between his Imperial Majesty the Emperor of Austria, his Majesty the King of Prussia, his Majesty the King of Italy, and the Germanic Confederation;

And whereas a state of war now exists between his Imperial Majesty the Emperor of Austria, his Majesty the King of Prussia, his Majesty the King of Italy, and the Germanic Confederation, and between their respective subjects and others inhabiting within their countries, territories, or dominions;

And whereas great numbers of our loyal subjects reside and carry on commerce, and possess property and establishments, and enjoy various rights and privileges, within the dominions of each of the aforesaid sovereigns and states, protected by the faith of treaties between us and each of the aforesaid sovereigns and states;

And whereas we, being desirous of preserving to our subjects the blessings of peace, which they now happily enjoy, are firmly purposed and determined to abstain altogether from taking any part, directly or indirectly, in the war now unhappily existing between the said sovereigns and states, their subjects and territories, and to remain at peace with and to maintain a peaceful and friendly intercourse with all and with each of them, and their respective subjects and others inhabiting within any of their countries, territories, and dominions, and to maintain a strict and impartial neutrality in the said hostilities and war unhappily existing between them;

We therefore have thought fit, by and with the advice of our privy council, to issue this our royal proclamation:

And we do hereby strictly charge and command all our loving subjects to govern themselves accordingly, and to observe a strict neutrality in and during the aforesaid hostilities and war, and to abstain from violating or contravening either the laws and statutes of the realm in this behalf, or the law of nations in relation thereto, as they will answer to the contrary at their peril.

And whereas, in and by a certain statute made and passed in the fifty-ninth year of his Majesty King George the Third, entitled "An act to prevent the enlisting or engagement of his Majesty's subjects to serve in a foreign service, and the fitting out or equipping, in his Majesty's dominions, vessels for warlike purposes, without his Majesty's license," it is among other things declared and enacted as follows: "That if any person within any part of the United Kingdom," &c., (7th clause of the foreign enlistment act.)

And it is in and by the said act further enacted, "That if any person in any part of the United Kingdom," &c., (8th clause of the foreign enlistment act.)

Now, in order that none of our subjects may unwarily render themselves liable to the penalties imposed by the said statute, we do hereby strictly command that no person or persons whatsoever do commit any act, matter, or thing whatsoever contrary to the provisions of the said statute, upon pain of the several penalties by the said statute imposed, and of our high displeasure.

And we do hereby further warn and admonish all our loving subjects, and all persons whatsoever entitled to our protection, to observe toward each and all of the aforesaid sovereigns and states, their subjects and territories, and toward all belligerents whatsoever with whom we are at peace, the duties of neutrality; and to respect in all and each of them the exercise of those belligerent rights which we and our loyal predecessors have always claimed to exercise.

And we do hereby further warn all our loving subjects, and all persons whatsoever entitled to our protection, that if any of them shall presume, in contempt of this our royal proclamation and of our high displeasure, to do any acts in derogation of their duty as subjects of a neutral sovereign in a war between other sovereigns and states, or in violation or contravention of the law of nations in that behalf, as more especially by breaking or endeavoring to break any blockade lawfully and actually established by or on behalf of any or either of the said sovereigns and states, by carrying officers, soldiers, dispatches, arms, ammunition, military stores or materials, or any article or articles considered and deemed to be contraband of war according to the law or modern usages of nations, for the use or service of any or either of the said sovereigns and states, that all persons so offending, together with their ships and goods, will rightfully

incur and be justly liable to hostile capture, and to the penalties denounced by the law of nations in that behalf.

And we do hereby give notice that all our subjects and persons entitled to our protection who may misconduct themselves in the premises will do so at their peril and of their own wrong; and that they will in no wise obtain any protection from us against such capture, or such penalties as aforesaid, but will, on the contrary, incur our high displeasure by such misconduct.

Given at our court at Windsor, this 27th day of June, in the year of our Lord 1866, and in the 30th year of our reign.

God save the Queen.

APPENDIX No. VI.

REGULATIONS AND INSTRUCTIONS PUBLISHED BY HER MAJESTY'S GOVERNMENT DURING THE CIVIL WAR IN THE UNITED STATES, 1861-'65.

LETTER FROM THE FOREIGN OFFICE TO THE ADMIRALTY, COLONIAL, WAR, AND INDIA OFFICES, INTERDICTING ARMED CRUISERS AND PRIVATEERS, WHETHER OF THE UNITED STATES OF NORTH AMERICA OR THE SO-STYLED CONFEDERATE STATES, FROM CARRYING PRIZES INTO BRITISH PORTS.

FOREIGN OFFICE, *June 1, 1861.*

MY LORDS: Her Majesty's government are, as you are aware, desirous of observing the strictest neutrality in the contest which appears to be imminent between the United States and the so-styled Confederate States of North America; and with the view more effectually to carry out this principle they propose to interdict the armed ships, and also the privateers, of both parties, from carrying prizes made by them into the ports, harbors, roadsteads, or waters of the United Kingdom, or of any of her Majesty's colonies or possessions abroad.

I have accordingly to acquaint your lordships that the Queen has been pleased to direct that orders in conformity with the principles above stated should forthwith be addressed to all proper authorities in the United Kingdom, and to her Majesty's naval and other authorities in all quarters beyond the United Kingdom, for their guidance in the circumstances.

I have, &c.,

J. RUSSELL.

The LORDS COMMISSIONERS OF THE ADMIRALTY.

NOTE.—A similar letter was addressed, on the same day, to each of the secretaries of state for India, war, and the colonies.

[Extract from the London Gazette of the 15th December, 1863.]

LETTER FROM EARL RUSSELL TO THE LORDS COMMISSIONERS OF THE ADMIRALTY, AND DISPATCHED FROM THE DUKE OF NEWCASTLE TO THE GOVERNOR OF THE BAHAMAS.

FOREIGN OFFICE, *January 31, 1862.*

MY LORDS: Her Majesty, being fully determined to observe the duties of neutrality during the existing hostilities between the United States and the States calling themselves the "Confederate States of America," and being, moreover, resolved to prevent, as far as possible, the use of her Majesty's harbors, ports, and coasts, and the waters within her Majesty's territorial jurisdiction, in aid of the warlike purposes of either belligerent, has commanded me to communicate to your lordships, for your guidance, the following rules, which are to be treated and enforced as her Majesty's orders and directions.

Her Majesty is pleased further to command that these rules shall be put in force in the United Kingdom and in the Channel Islands on and after Thursday, the 6th day of February next, and in her Majesty's territories and possessions beyond the seas six days after the day when the governor or other chief authority of each of such territories or possessions respectively shall have notified and published the same, stating in such notification that the said rules are to be obeyed by all persons within the same territories and possessions.

I. During the continuance of the present hostilities between the government of the United States of North America and the States calling themselves "the Confederate States of America," or until her Majesty shall otherwise order, no ship of war or privateer belonging to either of the belligerents shall be permitted to enter or remain in the port of Nassau, or in any other port, roadstead, or waters of the Bahama Islands, except by special leave of the lieutenant governor of the Bahama Islands, or in case of stress of weather. If any such vessel should enter any such port, roadstead, or waters by special leave, or under stress of weather, the authorities of the place shall require her

to put to sea as soon as possible, without permitting her to take in any supplies beyond what may be necessary for her immediate use.

If, at the time when this order was first notified in the Bahama Islands, there shall be any such vessel already within any port, roadstead, or waters of those islands, the lieutenant governor shall give notice to such vessel to depart, and shall require her to put to sea within such time as he shall, under the circumstances, consider proper and reasonable. If there shall then be ships of war or privateers belonging to both the said belligerents within the territorial jurisdiction of her Majesty, in or near the same port, roadstead, or waters, the lieutenant governor shall fix the order of time in which such vessels shall depart. No such vessel of either belligerent shall be permitted to put to sea until after the expiration of at least twenty-four hours from the time when the last preceding vessel of the other belligerent (whether the same shall be a ship of war, or privateer, or merchant ship) which shall have left the same port, roadstead, or waters, or waters adjacent thereto, shall have passed beyond the territorial jurisdiction of her Majesty.

II. During the continuance of the present hostilities between the government of the United States of North America and the States calling themselves "the Confederate States of America," all ships of war and privateers of either belligerent are prohibited from making use of any port or roadstead in the United Kingdom of Great Britain and Ireland, or in the Channel Islands, or in any of her Majesty's colonies or foreign possessions or dependencies, or of any waters subject to the territorial jurisdiction of the British Crown, as a station or place of resort for any warlike purpose or for the purpose of obtaining any facilities of warlike equipment; and no ship of war or privateer of either belligerent shall hereafter be permitted to sail out of or leave any port, roadstead, or waters subject to British jurisdiction, from which any vessel of the other belligerent (whether the same shall be a ship of war, a privateer, or a merchant ship) shall have previously departed, until after the expiration of at least twenty-four hours from the departure of such last-mentioned vessel beyond the territorial jurisdiction of her Majesty.

III. If any ship of war or privateer of either belligerent shall, after the time when this order shall be first notified and put in force in the United Kingdom and in the Channel Islands, and in the several colonies and foreign possessions and dependencies of her Majesty, respectively enter any port, roadstead, or waters belonging to her Majesty, either in the United Kingdom or in the Channel Islands, or in any of her Majesty's colonies or foreign possessions or dependencies, such vessel shall be required to depart and to put to sea within twenty-four hours after her entrance into such port, roadstead, or waters, except in case of stress of weather, or of her requiring provisions or things necessary for the subsistence of her crew, or repairs; in either of which cases the authorities of the port, or of the nearest port, as the case may be, shall require her to put to sea as soon as possible after the expiration of such period of twenty-four hours, without permitting her to take in supplies beyond what may be necessary for her immediate use; and no such vessel, which may have been allowed to remain within British waters for the purpose of repair, shall continue in any such port, roadstead, or waters for a longer period than twenty-four hours after her necessary repairs shall have been completed: *Provided, nevertheless*, That in all cases in which there shall be any vessels (whether ships of war, privateers, or merchant ships) of both the said belligerent parties in the same port, roadstead, or waters within the territorial jurisdiction of her Majesty, there shall be an interval of not less than twenty-four hours between the departure therefrom of any such vessel (whether a ship of war, a privateer, or a merchant ship) of the one belligerent, and the subsequent departure therefrom of any ship of war or privateer of the other belligerent; and the times, hereby limited, for the departure of such ships of war and privateers respectively, shall always, in case of necessity, be extended so far as may be requisite for giving effect to this proviso, but not farther or otherwise.

IV. No ship of war or privateer of either belligerent shall hereafter be permitted, while in any port, roadstead, or waters subject to the territorial jurisdiction of her Majesty, to take in any supplies, except provisions and such other things as may be requisite for the subsistence of her crew, and except so much coal only as may be sufficient to carry such vessel to the nearest port of her own country, or to some nearer destination; and no coal shall be again supplied to any such ship of war or privateer, in the same or any other port, roadstead, or waters subject to the territorial jurisdiction of her Majesty, without special permission, until after the expiration of three months from the time when such coal may have been last supplied to her within British waters as aforesaid.

I have, &c.,

RUSSELL.

NOTE.—A similar letter has been addressed to the secretaries of state for the home, colonial, war, and India departments, and to the lords commissioners of her Majesty's treasury.

DOWNING STREET, October 6, 1863.

SIR: Doubts having been expressed as to whether, under the regulations of the 31st January, 1862, which were embodied in a proclamation issued by you on the 11th March following, it is required that the commander of a belligerent ship of war or privateer should obtain the permission of the local authorities before entering the ports, roadsteads, or waters of the Bahamas out-lands, when the governor is not there present, I am to acquaint you that Earl Russell has taken her Majesty's pleasure thereupon, and you are to understand that at the ports of the out-lands, as at Nassau, the special leave of the governor himself is required (unless in stress of weather) by any belligerent vessel desiring to enter, with this exception only, that in cases of grave emergency and real necessity and distress, such as a sailing vessel being dismasted, or accident happening to the machinery of a steam-vessel, the vessel may enter the ports, roadsteads or waters, on obtaining leave from a resident officer, to whom the governor shall have delegated his authority in that behalf.

With a view to give effect to her Majesty's intentions, you will be pleased to convey to the officers in the out-lands to whom it may be best confided, the authority in question, taking care to communicate to them copies of the regulations of the 31st January, 1862, and calling their especial attention to the limits of the authority delegated, and to that clause of the regulations of 31st January, 1862, in which it is directed that vessels entering under stress of weather, or by special leave, shall be required to put to sea as soon as possible.

I have, &c.,

Governor BAYLEY, C. B., *gc, gc, gc*.

NEWCASTLE.

Return to an address of the honorable the House of Commons, dated 3d June, 1864, for "copy of any additional instructions to colonial governors on the subject of belligerent cruisers."

FREDERICK ROGERS.

COLONIAL OFFICE, June 6, 1864.

CIRCULAR INSTRUCTIONS TO GOVERNORS OF COLONIES RESPECTING THE TREATMENT OF PRIZES CAPTURED BY FEDERAL OR CONFEDERATE CRUISERS IF BROUGHT INTO BRITISH WATERS.

DOWNING STREET, June 2, 1864.

SIR: I think it well to communicate to you the decisions at which her Majesty's government have arrived on certain questions which have arisen respecting the treatment of prizes captured by federal or confederate cruisers if brought into British waters.

1. If any prize captured by a ship of war of either of the belligerent powers shall be brought by the captors within her Majesty's jurisdiction, notice shall be given by the governor to the captors immediately to depart and remove such prize.

2. A vessel which shall have been actually and *bona fide* converted into, and used as, a public vessel of war, shall not be deemed to be a prize within the meaning of these rules.

3. If any prize shall be brought within her Majesty's jurisdiction through mere stress of weather, or other extreme and unavoidable necessity, the governor may allow for her removal such time as he may consider to be necessary.

4. If any prize shall not be removed at the time prescribed to the captors by the governor, the governor may detain such prize until her Majesty's pleasure shall be made known.

5. If any prize shall have been captured by any violation of the territory or territorial waters of her Majesty, the governor may detain such prize until her Majesty's pleasure shall be made known.

Her Majesty's government have not thought it necessary to make any addition to the instructions already given with respect to cargoes, viz., that her Majesty's orders apply as much to prize cargoes of every kind which may be brought by any armed ships or privateers of either belligerent into British waters as to the captured vessels themselves. They do not, however, apply to any articles which may have formed part of any such cargoes if brought within British jurisdiction, not by armed ships or privateers of either belligerent, but by other persons who may have acquired or may claim property in them by reason of any dealings with the captors.

These rules are for the guidance of the executive authority, and are not intended to interfere in any way with the process of any court of justice.

I have, &c.,

EDWARD CARDWELL.

[From the London Gazette, September 9, 1864.]

FOREIGN OFFICE, *September 8, 1864.*

It is hereby notified that her Majesty has been pleased to order that for the future no ship of war belonging to either of the belligerent powers of North America shall be allowed to enter, or to remain, or be, in any of her Majesty's ports for the purpose of being dismantled or sold; and her Majesty has been pleased to give directions to the commissioners of her Majesty's customs, and to the governors of her Majesty's colonies and foreign possessions, to see that this order is properly carried into effect.

[Extract from the London Gazette of May 19, 1865.]

LETTER FROM EARL RUSSELL TO THE LORDS COMMISSIONERS OF THE ADMIRALTY.

FOREIGN OFFICE, *May 11, 1865.*

MY LORDS: I have the honor to acquaint you that, in the existing state of the civil war in America, and the uncertainty which may be felt as to its continuance, it appears to her Majesty's government that the time has arrived for ceasing to enforce so much of the orders which, in pursuance of my letter of the 31st of January, 1862, were issued by the several departments of her Majesty's government, as empowered the authorities of any port belonging to her Majesty, either in the United Kingdom or the Channel Islands, or in any of her Majesty's colonies or foreign possessions or dependencies, to require any ship of war or privateer of either belligerent which might enter any port, roadstead, or waters belonging to her Majesty, in order to obtain provisions or things necessary for the subsistence of her crew, or to effect repairs, or to put to sea as soon as possible after the expiration of a period of twenty-four hours, without permitting her to take in supplies beyond what might be necessary for her immediate use; and not to suffer any such vessel as might have been allowed to remain within British waters for the purpose of repair to continue in any port, roadstead, or waters belonging to her Majesty for a longer period than twenty-four hours after her necessary repairs should have been completed; and also so much of the same orders as limited the quantity of coal and the period within which it might be obtained, to be embarked on board any such ship of war or privateer of either belligerent.

I have addressed a similar letter to the secretaries of state for the home, colonial, war, and India departments, and to the lords commissioners of her Majesty's treasury.

RUSSELL.

NOTE.—A similar letter has been addressed to the secretaries of state for the home, colonial, war, and India departments, and to the lords commissioners of her Majesty's treasury.

[Extract from the London Gazette of June 5, 1865.]

LETTER FROM EARL RUSSELL TO THE LORDS COMMISSIONERS OF THE ADMIRALTY.

FOREIGN OFFICE, *June 2, 1865.*

MY LORDS: I have the honor to state to your lordships that since the date of my letter of the 11th ultimo intelligence has reached this country that the late President of the so-called Confederate States has been captured by the military forces of the United States, and has been transported as a prisoner to Fort Monroe, and that the armies hitherto kept in the field by the Confederate States have, for the most part, surrendered or dispersed.

In this posture of affairs, her Majesty's government are of opinion that neutral nations cannot but consider the civil war in North America as at an end.

In conformity with this opinion her Majesty's government recognize that peace has been restored within the whole territory of which the United States of North America, before the commencement of the civil war, were in undisturbed possession.

As a necessary consequence of such recognition on the part of her Majesty's government, her Majesty's several authorities in all ports, harbors, and waters belonging to her Majesty, whether in the United Kingdom or beyond the seas, must henceforth refuse permission to any vessel of war carrying a confederate flag to enter any such ports, harbors, and waters; and must require any confederate vessels of war which, at the time when these orders reach her Majesty's authorities in such ports, harbors, and waters, may have already entered therein on the faith of proclamations heretofore issued by her Majesty, and which, having complied with the provisions of such proclamations, may be actually within such ports, harbors, and waters, forthwith to depart from them.

But her Majesty's government consider that a due regard for national good faith and honor requires that her Majesty's authorities should be instructed, as regards any such confederate vessels so departing, that they should have the benefit of the prohibition

heretofore enforced against pursuit of them within twenty-four hours by a cruiser of the United States lying at the time within any such ports, harbors, and waters, and that such prohibition should be then and for the last time maintained in their favor.

If, however, the commander of any confederate vessel of war which may be found in any port, harbor, or waters of her Majesty's dominions at the time these new orders are received by her Majesty's authorities, or may enter such port, harbor, or waters within a month after these new orders are received, should wish to divest his vessel of her warlike character, and, after disarming her, to remain without a confederate flag within British waters, her Majesty's authorities may allow the commander of such vessel to do so at his own risk in all respects, in which case he should be distinctly apprised that he is to expect no further protection from her Majesty's government, except such as he may be entitled to in the ordinary course of the administration of the law in time of peace.

The rule as to twenty-four hours would of course not be applicable to the case of such vessel.

I have addressed a similar letter to the secretaries of state for the home, colonial, India, and war offices, and also to the lords commissioners of her Majesty's treasury, requesting them, as I do your lordships, to issue instructions in conformity with the decision of her Majesty's government to the several British authorities at home or abroad who may be called upon to act in the matter.

I am, &c.,

RUSSELL.

NOTE.—A similar letter was addressed to the secretaries of state for the home, colonial, war, and India departments, and to the lords commissioners of her Majesty's treasury.

APPENDIX NO. VII.

Return to an address of the honorable the House of Commons, dated July 8, 1863, for "copy of a memorial from certain ship-owners of Liverpool to the secretary of state for foreign affairs, suggesting an alteration in the foreign enlistment act."

No. 1.

To the right honorable the Earl Russell, her Majesty's principal secretary of state for the foreign department.

The memorial of the undersigned ship-owners of Liverpool sheweth: That your memorialists, who are deeply interested in British shipping, view with dismay the probable future consequences of a state of affairs which permits a foreign belligerent to construct in, and send to sea from, British ports vessels of war, in contravention of the provisions of the existing law.

That the immediate effect of placing at the disposal of that foreign belligerent a very small number of steam cruisers has been to paralyze the mercantile marine of a powerful maritime and naval nation, inflicting within a few months losses, direct and indirect, on its ship-owning and mercantile interests, which years of peace may prove inadequate to retrieve.

That your memorialists cannot shut their eyes to the probability that in any future war between England and a foreign power, however insignificant in naval strength, the example now set by subjects of her Majesty, while England is neutral, may be followed by citizens of other countries neutral when England is belligerent; and that the attitude of helplessness in which her Majesty's government have declared their inability to detect and punish breaches of the law notoriously committed by certain of her Majesty's subjects, may hereafter be successfully imitated by the governments of those other countries in answer to English remonstrances.

That the experience of late events has proved to the conviction of your memorialists that the possession by a belligerent of swift steam cruisers, under no necessity, actual or conventional, to visit the possibly blockaded home ports of that belligerent, but able to obtain all requisite supplies from neutrals, will become a weapon of offense against which no preponderance of naval strength can effectually guard, and the severity of which will be felt in the ratio of the shipping and mercantile wealth of the nation against whose mercantile marine the efforts of those steam cruisers may be directed.

That the effect of future war with any power thus enabled to purchase, prepare, and refit vessels of war in neutral ports, will inevitably be to transfer to neutral flags that portion of the sea-carrying trade of the world which is now enjoyed by your memorialists, and by other British shipowners.

That over and above the chances of pecuniary loss to themselves, your memorialists share in the regret with which a law-regarding community must naturally look on suc-

cessful attempts to evade the provisions of an act of Parliament, passed for a single and simple purpose, but which has been found not to give the executive all the powers needed for its effective execution.

That your memorialists would accordingly respectfully urge upon your lordship the expediency of proposing to Parliament to sanction the introduction of such amendments into the foreign enlistment act as may have the effect of giving greater power to the executive to prevent the construction in British ports of ships destined for the use of belligerents.

And your memorialists would further suggest to your lordship the importance of endeavoring to secure the assent of the governments of the United States of America and of other foreign countries to the adoption of similar regulations in those countries also.

All which your memorialists respectfully submit.

Lampert & Holt.
James Baines & Co.
Richard Nicholson & Son.
W. B. Boadle.
J. Prowse & Co.
Currie, Newton & Co.
Nelson, Alexander & Co.
Kendall Brown.
G. S. H. Fletcher & Co.
J. Aikin.
Finlay, Campbell & Co.
Cropper, Ferguson & Co.
J. Campbell.
S. R. Graves.
Rankin, Gilmour & Co.
Rathbone Bros. & Co.

James Brown & Co.
James Poole & Co.
W. Jacob & Co.
Henry Moore & Co.
Imrie & Tomlinson.
Thomas Chilton.
Jones, Palmer & Co.
Farnworth & Jardine.
Thomas & James Harrison.
L. H. Macintyre.
Potter Brothers.
Chas. Geo. Cowie & Co.
W. J. Seally.
R. Girvin & Co.
C. T. Bowring & Co.

LIVERPOOL, June 9, 1863.

No. 2.

Mr. Hammond to Messrs. Lampert & Holt, and others.

FOREIGN OFFICE, July 6, 1863.

GENTLEMEN: I am directed by Earl Russell to acknowledge the receipt of the memorial, dated the 9th of June, signed by you and others of the merchants at Liverpool, in which you urge upon his lordship the expediency of proposing to Parliament such amendments to the foreign enlistment act as shall enable the government to prevent the construction in British ports of ships destined for the use of belligerents.

I am to state to you, in reply, that in Lord Russell's opinion the foreign enlistment act is effectual for all reasonable purposes, and to the full extent to which international law or comity can require, provided proof can be obtained of any act done with the intent to violate it.

Even if the provisions of the act were extended, it would still be necessary that such proof should be obtained, because no law could or should be passed to punish upon suspicion instead of upon proof.

I am, &c.,

E. HAMMOND.

APPENDIX No. VII.

PRIVATE JOURNAL OF AN OFFICER OF THE ALABAMA.*

[From a supplement to the South African Advertiser and Mail, Cape Town, Saturday, September 19, 1863.]

"OUR CRUISE IN THE CONFEDERATE STATES' WAR STEAMER ALABAMA," BY G. T. FULLAM.

The presidential election—the slave question—the slanderous tongues of northern senators—the tone of the northern press, and the unjust laws passed by a northern Congress—unjust because they acted, and were intended to act, upon the southern people—all these tended to produce a feeling of discontent and to foster minds already embittered against the North to withdraw from the Union, and to make for themselves a place among the nations of the earth.

To effect this object, negotiations were attempted to be entered into, which, however, signally failed, and it was only after every exertion had been made to adjust the matter in a peaceful and proper manner (but without avail) that recourse was made to arms. After the outbreak of the war, the immense naval superiority of the North gave them considerable advantages over the South, who, lacking convenience and material, were not able to build vessels with sufficient dispatch, and the Confederate States' government sent over Captain J. D. Bullock to England for the purpose of purchasing a war steamer. Accordingly the No. 290 was built and intended for a confederate vessel of war.

The No. 290 was launched from the building yard of Messrs. Laird, of Birkenhead. She was a bark-rigged wooden propeller, of 1,040 tons register. Length of keel, 210; length over all, 220 feet; beam, 32; depth, 17. Her engines, built by the same firm, were two horizontal ones, each of 300 horse-power, with stowage for 350 tons of coal. Her sails, carried at all times, were as follows: Fore, foretop-mast, stay-sail jib; two large try-sails; the usual square sails on fore and main, with the exception of the main-sail, which was a flying one; spanker and gaff-top-sails; all standing rigging wire. Double wheel, with motto engraved thereon, "*Aide, toi, et Dieu t'aidera*," placed just before the mizzen-mast. Bridge in the center just before the funnel. Carried five boats, viz: cutter and launch amidships, gig and whale-boat between the main and mizzen masts, and dingy astern. The main deck pierced for twelve guns; elliptic stern; billet head; high bulwarks; cabin accommodations first-class; ward-room furnished with a handsome suite of state-rooms; steerage—starboard for midshipmen, port for engineers; next came engine-room, coal bunkers, &c.; then the berth-deck, capable of accommodating 120 men; under the ward-room were store-rooms; and under the steerage were shell-rooms; just forward of the fire-arms came the hold; next the magazines, and forward of all the boatswains' and sail-makers' store-rooms; the hold, &c., being all under the berth-deck.

At 9.15 a. m. of the 29th July, 1862, we weighed anchor, and proceeded slowly down the Mersey, anchoring in Moelfra Bay—having on board relatives and friends of the builders, both ladies and gentlemen. Our ostensible object in sailing was to go "on a trial trip," and the presence of the ladies and gentlemen gave a certain color to the report. In the evening transferred our visitors to a steam-tug. We remained here, shipping hands, &c., until 2 a. m. of the 31st, when we got under way, ostensibly bound to Nassau, Bahamas. A strong breeze was blowing from the southwest, accompanied with heavy rain, a boisterous sea running at the time, forming altogether a most uninviting picture, and one not at all calculated to augur good luck. Our unceremonious departure was owing to the fact of news being received to the effect that the customs authorities had orders to board and detain us that morning.

Passing successively the Isle of Man, Ailsie Craig, &c., we have to off the Giant's Causeway, and landed Captain Bullock and the pilot, amid a drenching shower of rain. Soon, however, it cleared up, and away we steered (to the westward,) at the rate of 13½ knots an hour. Soon after clearing the land a strong southwest wind with a heavy sea continued until our arrival at Porto Praya, in the island of Terceira, (Azores,) on

*See dispatch from Mr. Dudley to Mr. Seward, August 6, 1862, Vol. III, p. 37. Dispatch No. 530 from Mr. Adams to Mr. Seward, November 5, 1863, Vol. III, p. 202. Dispatch No. 533 from Mr. Adams to Mr. Seward, November 13, 1863, Vol. III, p. 205. Note from Mr. Adams to Earl Russell, November 14, 1863, Vol. III, p. 206.

the 10th August. The port bow port had been stove in, and a few minor damages done by the heavy sea we had encountered, notwithstanding which our vessel gave promise of being a good sea boat, and also a swift one.

The same afternoon the officials came off, and in reply to their questions, we said that we were the steamer *Barcelona*, from London, fifteen days out, bound to Havana, and intended for the Spanish government for the war with Mexico. Were quarantined three days.

The vessel was under the command of Captain M. J. Butcher, late of the *Cunard* service. The rest of the officers were as follows, viz: Chief officer, John Low, (E) Savannah, Georgia; second officer, G. S. Fullam, Hull, England; Surgeon, D. H. Llewellyn, Easton, Wilts; paymaster, C. R. Yonge, Savannah, Georgia; chief engineer, J. McNair, England. The crew numbered about seventy men and boys.

Our object in going there—that is to Terceira—was to obtain the necessary arms, ammunition, &c., requisite for a vessel of war. England's proclamation of neutrality prevented the guns, &c., being placed on board in Liverpool. Skill and secrecy of no inconsiderable degree were required to escape the vigilance of the Yankees, who, through the agency of their spies, were quite *au fait* with regard to confederate affairs in England.

No sooner was our departure known than the United States steamer *Tuscarora* received, through the American consul at Liverpool, news of it. Every exertion was made by her commander to seize us, but without avail, for by the time the *Tuscarora* arrived in Moelfra Bay we had been gone two days. Going on shore I found the people both courteous and hospitable, every attention being paid by them. The bay is a moderate sized one, with good holding ground, and protected from all save easterly winds. Three or four forts (without guns) were built, but were nearly useless through decay. Beef has to be brought from Angra, on the other side of the island. Fruit and vegetables are plentiful, but water is scarce.

On the 13th a sail was observed standing into the harbor; anchoring near us, she proved to be the American whaling schooner *Rising Sun*, of Provincetown. Through the indiscretion of the purser, our real character became known, and considerable apprehension was felt for our safety on her departure a few days after.

On the 18th a sail was observed making for the anchorage. In the evening she anchored near us, when we found her to be the *Agrippina*, of London, Captain McQueen, having on board six guns, with ammunition, coals, stores, &c., for us. Preparations were immediately made to transfer her cargo. On the afternoon of the 20th, while employed discharging the bark, the screw steamer *Bahama*, Captain Tessier, arrived, having on board Commander Raphael Semmes and officers of the Confederate States steamer *Sumter*. Hauled steamer alongside, taking from her two thirty-two pounders, with some stores, &c., which took us until the following day.

22d.—Got up steam; dodging slowly along the island, having the bark fast alongside, taking from her a quantity of coal, &c., which took us until the evening of the 23d, when we anchored in Angra Bay. About 9 a. m. we were startled by the report of a gun, fired from a fort, and which was believed to have had a shot in. The *Bahama* immediately stood seaward, in order to draw the fire from us towards her. At 11 a. m. another was fired. The explanation given by the authorities the following morning was that it was only a mail signal. We had, however, considerable reason to doubt it. I was this day appointed acting master's mate to the Confederate States steamer *Alabama*.

Sunday, 24th August, 1862.—Strong northwest wind at 12.30; got under way in company with the *Bahama*, and stood along the island of Terceira. At 2 p. m. Captain Semmes read his commission, and formally took command of the Confederate States steamer *Alabama*, eight guns; hoisting the confederate ensign at the peak, the English St. George's at the fore, and the pendant at the main, firing a gun at the same time. Commander Semmes made a most effective, spirited address, in which (after speaking of the relations existing between the North and South) he said, "his principal object was to cripple the commerce of the enemy; that he was not going to fight a fifty-gun ship, but as soon as they had become proficient in the use of their weapons, he would give them an opportunity to show the world what they were made of." Three rousing cheers were given on its conclusion.

Having conveyed Captains Bullock and Butcher to the *Bahama*, I returned, and at 11.30 p. m. we hoisted launch and parted, the *Bahama* returning to Liverpool, and the *Alabama* proceeding on a cruise. (Including commander, twenty-six officers and eighty-five men.) 2.30 p. m. of the following day, hoisted up the propeller and secured it, it being our intention to cruise under sail only, unless occasion demanded steam.

29th.—Gave chase to a brig; lost her in the darkness. The following day sighted another that showed French colors. 6.30 p. m. called all hands to muster and stationed them at the great guns. Strong northeast wind.

31st.—Sail reported on our lee bow; gave chase. Showed Portuguese colors.

2d September.—Chased a bark; on boarding she proved to be the *La Foi*, from Timor to Nantes.

4th.—Exercised first and second divisions at great guns.

5th.—Several vessels in sight; gave chase to one, discovering her to be a Portuguese brigantine; went about and chased a ship which showed American colors. On boarding she proved the Ockmulgee, whaler, of Martha's Vineyard, with a valuable sperm whale fast alongside. Took possession, transferred her crew to the Alabama, and a quantity of stores. All prisoners, American-born, were put in irons; the rest, if English, &c., were not ironed.

6th.—Burnt prize. In chase of a bark; coming up with her, we found that she was the French bark Senegambia, of Marseilles. Made the island of Flores and Corvo. Sent prisoners ashore off Flores. Chased and captured the schooner Starlight, of Boston, with passengers from Fayal to Flores. This was rather an exciting chase, for after firing a blank cartridge, she still kept on her course, (endeavoring to get shelter under the land.) A shot was then fired across her bow, but without any effect; so a shot was fired between her masts, which had the desired effect. Transferred prisoners and hove to until daylight.

7th.—Saw a steamer on weather bow. Read articles of war.

8th.—Landed passengers and crew of Starlight at Flores. Seven sails in sight. Stood out from the land in chase of one, prize schooner following. Came up with her, and found her to be the bark Ocean Rover, of New London, with a valuable cargo of whale oil on board, having been out forty months. Transferred prisoners, stores, &c., and in the evening scuttled her; but, as it afterwards showed, ineffectually, owing to the buoyancy of the cargo.

9th.—Captured bark Alert, of New Bedford. Engaged all day transferring stores for ship's use. Set on fire barks Ocean Rover and Alert and schooner Starlight. Overhauled and captured schooner Weather Gage, of Provincetown. Stood in chase of a bark, and which on boarding proved to be Danish. To this vessel we hoisted American colors and passed as the United States steamer Iroquois. To all prizes we had captured we hoisted English colors, and exchanged them for confederate as soon as the boarding officer gained the vessel's deck.

10th.—Burnt prize and shaped a course for Flores.

11th.—Hove to off Flores, and landed prisoners. The governor paid us a visit. Filled away in chase of a bark, but owing to the darkness lost her.

12th.—Fresh southerly wind; very pleasant. Made sail in chase of a vessel; found her to be a Portuguese bark.

13th a. m.—Two vessels in sight; one proved to be a Spaniard, the other a Yankee brigantine, and which of course we captured, taking her crew on board our vessel, and setting her on fire—the Altamaha, of Sippican.

14th, 1.30 a. m.—Gave chase to a sail on lee-bow. 2.30 a. m. fired a gun for her to heave to. Darkness prevented us knowing who she was, so I went on board to examine her papers, and which, if Yankee, I was to signal it and heave to until daylight. What I did on boarding this vessel was the course usually adopted in taking prizes. Pulling under his stern I saw it was the whaling ship Benjamin Tucker, of and from New Bedford. Gaining the quarter-deck, I was welcomed with outstretched hands. In answer to my questions, the captain told me her name, port of registry, &c., &c., all of which I was previously aware. I then told him that he was a prize to the Confederate States steamer Alabama, ordering him to put his clothes in one trunk, allowing the mates and men one bag each—all navigation books and instruments being left behind. At daylight sent the captain and crew with the ship's papers and luggage to the Alabama. I then examined the ship, and finding some cases of stores, they were transferred to our ship. The preparations to fire her were soon made, so that after seeing her well fired we pushed off and regained our vessel, the prisoners (Yankees) being placed in single irons. 15th, light breeze, with heavy swell.

16th.—Land in sight, right ahead, 10.30 a. m. Sail reported right ahead and took possession of her. The schooner Courser, of Provincetown. We then stood toward the land, sent prisoners ashore, stood out to sea, and made a target of prize. After some creditable shooting, we burnt her.

17th.—While at quarters, two vessels reported; bore down for the lee one; 11.20, hove to. She showed Yankee colors; accordingly we took possession. Found her to be the bark Virginia, whaler, of, and twenty-one days from, New Bedford. Obtained late newspapers, containing accounts of victories gained both by the federals and confederates; the former at Baton Rouge; the latter in Missouri. The news, however, was received with doubt, on account of the source from which it emanated; 4 p. m. set fire to prize.

18th.—Two vessels in sight; chased one; proved to be a French brig. Bore away for the other. She evidently not liking our appearance, altered her course and made all sail; a fresh breeze was blowing at the time. Her exertions, however, proved fruitless, for at 12.30 we came up with her; boarded and took possession of bark Elisha Dunbar, from New Bedford, twenty-five days out. In the evening burnt her.

19th and 20th.—Under double-reefed top-sails and try-sails.

Monday, 21st.—Officers and men to muster. On the first Sunday in each month the articles of war were read, and the ship and men every Sunday.

26th.—Up to to-day cruising with fine weather; in the evening it became squally.

28th.—Sail reported; gave chase; proved to be a foreign brigantine. Not wishing our real character to be known, we kept on our course without speaking her. Fine, with light winds.

30th.—Gave chase to a vessel on lee bow; proved to be a French bark. Fresh breeze and heavy sea.

October 1.—Strong breeze, and occasionally rain. The crews of the Virginia and Elisha Dunbar still on board. A change of weather keenly felt, it being very cold.

3d.—Early in the morning the joyful cry of "sail ho!" was heard from the mast-head; presently, three sails were reported in sight. At 9.30 came up with one; hoisted the St. George's ensign; boarded, hauled down, and hoisted the Stars and Bars, and took possession of the ship Emily Farnum, of Portsmouth, N. H. Made sail after another, prize following astern. On boarding she was found to be the ship Brilliant, of and from New York, twelve days out, bound to Liverpool with a valuable cargo of grain and flour. The cargo of the Emily Farnum proving to be neutral, and the prisoners becoming irksome, it was deemed a favorable opportunity to get rid of them. All the prisoners were then placed on board of her, and the ship allowed to proceed on her voyage, her captain promising to land them in Liverpool. It seemed a fearful thing to burn such a cargo as the Brilliant had, when I thought how the operatives in the cotton districts would have danced with joy had they it shared among them. I never saw a vessel burn with such brilliancy, the flames completely enveloping the masts, hull, and rigging in a few minutes, making a sight as grand as it was appalling. This evening, quite unexpectedly, we were called to general quarters, going through all the evolutions in quite a masterly manner. Sounded fire alarm, manned pumps as for a leak, called away boarders, and went through everything expected to be done in action. After this, every Friday evening, when practicable, was set apart for general quarters. From the papers taken from the Brilliant we read of the success of our brave troops in Virginia, and also of the successful escape of the confederate screw-steamer Florida into a confederate port.

5th.—Boarded a French bark. In the evening chased a brigantine, who proved to be a Swede. Fresh breeze from the westward.

7th.—Light winds. 4.30 a. m., sail reported on starboard bow; chased, and at 6 fired a gun to heave to, and hoisted the confederate ensign. On boarding I found her to be the bark Wave Crest, of and from New York to Cardiff eight days out. Her captain asserting that his cargo was English, but not having any papers to prove it, of course she was made a prize. Cargo consisted of grain and flour. 2.30 p. m., called all hands to quarters, port battery firing two rounds of shell at prize. Boarding to burn her, we found that two shells had struck, the rest passing over in good line firing. 6.30 p. m., sail reported on weather bow. 9.30, brought her to with blank cartridge. Boarded and made a prize of the brigantine Dunkirk, of and from New York to Lisbon, flour laden, eight days out. By midnight had crew on board of us, and the vessel burnt. Examining the prisoners, we found one of them to be a deserter from the Confederate States steamer Sumter, he being one of the seven deserting at Cadiz. Immediately upon arrival on board he was placed in double irons.

9th.—Light westerly breeze. 10 a. m., a court-martial assembled in the ward-room to try George Forrest, A. B., for desertion from the Sumter. The court consisted of the following officers, viz: President, the first lieutenant, and the senior second lieutenant, surgeon, master, chief engineer, and lieutenant of marines; judge advocate, the captain's clerk. 4.30, captured the ship Tonawanda, of and from Philadelphia to Liverpool, laden with grain, having also on board about seventy-five passengers. Took from her David White, a slave to one of the passengers, 8.15 p. m., boarded the English brig Ann Williams, from Cuba to Bristol.

10th.—Read sentence of court-martial to prisoner, and discharged him; the sentence was, "that all pay, prize money, &c., due to him be forfeited; that he fulfill his term of service, and forfeiting all pay excepting such as is sufficient to provide necessary clothing and liberty money." 10.30, made out a sail on lee bow; after an hour's chase fired a gun and brought her to. She proved to be a Mecklenberg ship, from New York, bound to Dublin.

11th.—Light easterly wind until evening. 5.45 a. m., made a large sail on starboard bow; being far to windward and wind light, did not chase. 3.30 p. m., sail reported on weather bow. 5.30, overhauled and hove her to; upon boarding she proved to be the ship Manchester, of and from New York, bound to Liverpool, with wheat, cotton, &c. Transferred all prisoners to prize ship Tonawanda, and burnt the Manchester. The captain of the Tonawanda being kept on board our ship as security. Strong variable winds up to the

13th.—10.50 a. m., made a sail on weather bow; made sail in chase, suspecting her to be a disguised vessel of war; all hands were called to quarters, and the guns loaded with shell. Raining heavily at 5.50 p. m. Gave up the chase and secured the battery, the chase having shown Spanish colors. 6 p. m., released the Tonawanda, her master

ransoming her at \$80,000. Her passengers testifying in rather a ludicrous manner (to me) their joy at their deliverance.

14th.—Strong northwest winds a. m. Chased and overhauled the Danish ship Judith. Chased another, proved to be French. Another vessel in sight to windward. Coming up with her, she proved to be English. Her captain saluted our flag; which compliment we returned.

15th.—Strong westerly winds, accompanied with heavy rain. 6.45 a. m., sail discovered on weather bow. Coming up with her, we fired a blank cartridge, hauling down the St. George's ensign and hoisting the confederate flag. No notice being taken of it, both bow guns were loaded with shot; observing it the chase hove to. On our boat returning with the captain, it was found to be the bark Lamplighter, of Boston, from New York to Gibraltar laden with tobacco. Brought crew on board our vessel and burnt prize. Midnight, blowing fresh.

16th.—Commenced with a strong gale from the south-southeast. Toward daybreak it freshened considerably, a heavy sea running at the same time. 9.30, blowing a perfect hurricane, the sea rising to a fearful height, and the ship laboring heavily. Shortly after, a squall of extraordinary violence struck us, we being under close reefed main-top-sail, reefed main try-sail and fore-topmast stay-sail. The heavy strain on the main braces caused the weather buntkin to snap in two—the yard flew forward, bending upward until it was almost double, when with a sudden crash it broke in two, splitting the top-sail with a noise equal to the loudest thunder. A sea striking immediately after smashed in the whale-boat; it was soon cut away. No sooner had the main-top-sail gone, than the fore-topmast stay-sail was cut away by the captain of the fore-castle, thereby preventing the ship falling off into the trough of the sea. A storm try-sail was soon bent, and the main try-sail lowered, splitting the sail during the operation. Various minor casualties occurred, but nothing of a very serious nature. Everybody was thoroughly wet by the salt spray. The vessel's behavior during the storm was beautiful. A finer sea-boat never floated. All the idlers, boys, &c., were placed under the weather bulwarks on the quarter-deck, with a rope stretched before them to prevent them falling to leeward. Wind northwest immediately after. Moderated toward evening, so that we were able to send down the wreck of the main yard and bend new sails. The evening turned out with a heavy sea from the southward; the wind abating, causing the ship to roll heavily. 17th, opened with a moderate breeze and a heavy swell from the south. About noon the sea went down considerably; sail was made; and in about half an hour a sail was reported on the starboard bow; went after her, hoisted English colors, the chase hoisting English in return. The heavy sea and the amount of work requisite to be done prevented us following her up, so we hauled upon our course again. Hard squalls until Sunday, 19th, commenced with fine weather. 4 p. m., sent up main yard and bent main-top-sail. 20th, 4 a. m., two lights, one ahead of the other astern, were seen, made all sail in chase of one. Coming within two miles of her she hoisted English colors. Went about in chase of the other, who proved to be a brigantine under Dutch colors. Hauled up on our course again. Alternate sunshine and showers until noon, when a heavy squall, accompanied with rain, struck us, the wind veering round to west-northwest. Double reefed top-sails and try-sails. Towards evening a sail hove in sight; she being so far to windward, and darkness drawing on, we gave up the chase.

21st.—Fine, with a northerly wind; at daylight made a sail. Found her to be the bark Heron, of Sunderland, from New York, bound to Queenstown, we calling our ship her Majesty's steamer Racehorse. Toward midnight the wind freshened considerably.

22d.—Blowing a fresh gale with a heavy sea. Hove to at 10 p. m. Cut away the dingy, it having been stove by a sea striking her some time previously. Saw two vessels standing easterly.

23d.—4 a. m., a light reported astern. Stood for her. Hoisted the English blue, to which chase answered by hoisting English also. Saw two vessels far to leeward, hauling up to the northwest. 3.40 p. m., "sail, ho!" was heard again. Kept away for her, called the first gun's crew to quarters, fired a blank cartridge; hove her to, boarding and returning with her captain and papers; she proved to be the ship Lafayette, of Newhaven, New York to Belfast, three days out, with a large cargo of grain, &c. The captain stated that his cargo was English; but not having papers to that effect, of course he was declared a prize. Transferred prisoners, chronometers, &c., not forgetting half a dozen porkers, &c., to our ship, and fired prize. The cold and weather generally being rather severe, the prisoners were put below in the forward fire-room, it being vacated for that purpose, and the fires kindled in the after one instead. Hitherto they had lived on the main-deck with a tent specially rigged for them.

24th.—Fine, with a strong northerly wind. Sail in sight; coming up with her, she proved to be an English brigantine. From a stray newspaper, taken in the Lafayette, we read that news had been received in New York of the capture of the Yankee vessels by the Alabama, in which it stated that the treatment to which the prisoners were subjected was "worse than dogs." Such gross falsehoods annoyed us considerably, as all our prisoners had been treated with every kindness consistent with safety.

25th.—Light winds. A sail in sight all day. 2 p. m. all hands to general quarters, going through all naval evolutions.

Sunday, 26th.—Fine, with a fresh breeze. Chased a vessel for a short time; put about after another; after firing a blank cartridge the first division was called to quarters and two shots fired over her at a distance of three miles. Hove to and made a prize of her, the schooner Crenshaw, of and from New York, to Glasgow, four days out, grain laden. Burnt prize and proceeded on our course. From this vessel we obtained papers, in which we read the infamous assertions made by the captain of the Brilliant with respect to our treatment of prisoners. A conviction was forced upon every mind that kindness extended to them was completely thrown away.

27th.—Weather assuming a threatening appearance. Reduced sail accordingly. Sounded, but no bottom with seventy-five fathoms. Shipped three men, making a total of eleven men shipped from prizes.

28th.—Light westerly wind. Daylight, a vessel in sight; supposing her to be a foreign brigantine, did not chase her long, another sail having been reported on lee bow. 11 a. m. fired a gun and hove her to. Boarded and took possession of the bark Laurietta, of Boston, from New York, bound to Gibraltar and Messina. Obtained news of a brilliant victory gained by our troops in Kentucky. The excitement in the northern States appeared to be intense, their papers acknowledging their inability to catch us. Much amused was I to read in a list of officers my name as corporal. I suppose it originated in the fact that in conjunction with Lieutenant Howell, and another officer, I kept watch and guard over the prisoners.

29th.—Got up steam and lowered propeller. With eight pounds of steam, going nine knots. 4 p. m., sail in sight on starboard bow, 5, came up with her; found her to be a bark under Dutch colors. Five vessels now in sight; chased one. 6.30 p. m., ordered her to heave to. Boarded and took possession of the brigantine Baron de Castine, of and from Castine, bound to Cuba with a cargo of lumber. Ransomed her on condition that he took all our prisoners and landed them. Sent them all on board and proceeded on our course. By this vessel, Commandant Semmes sent his respects to the New York Chamber of Commerce, stating also that by the time this message reached them he (Captain Semmes) would be off that port.

30th.—Strong north wind, 8 a. m.; three vessels in sight. Passed a bark, evidently a foreigner, steering northwest. We were startled and annoyed to find that only four days' coals were on board. Such a discovery, however, opportune as it was, annoyed us not a little. To astonish the enemy in New York Harbor, to destroy their vessels in their own water, had been the darling wish of all on board. It now being impracticable to continue our course, we reluctantly squared away and stood towards the southeast. 2 p. m., hoisted up screw and banked the fires. 3 p. m., made sail in chase of a vessel. Found her to be the Dutchman we had spoken twice previously.

November 1st.—Fine, with light winds. Chased two vessels; one proved to be English, the other French. A third in sight.

Sunday, 2d.—Fine, light winds; 7 a. m., a sail descried steering to the northeast. This being the first Sunday in the month the articles of war were read as usual. 12.30, hove the vessel to with blank cartridge. Took possession of ship Levi Starbuck, of and from New Bedford, five days out. Obtained news of our successes in Kentucky. Employed until sunset transferring stores, &c., from prize. Then burnt her.

6th, 4 a. m.—Two vessels hove in sight. Boarding one I found her to be a French bark bound to Havre.

8th, 2 a. m.—Made sail in chase of a schooner standing to the southward. Another vessel standing northeast, in sight shortly after. Went in chase of her, she showing Yankee colors. We answered by showing the same. In reply to his signal we passed as the United States Ticonderoga. The signal, "What is your longitude?" we declined answering until we could verbally do it. Hove to until she neared us, then fired a gun and hoisted the confederate ensign. Sent a boat on board and took possession. Found her to be the Thomas B. Wales, of Boston, from Calcutta, with a general cargo; having as passenger the late United States consul at Mauritius, with his wife and two children; the captain having his wife with him also. They were accommodated in the ward-room. The officers vacating their rooms for that purpose. Many articles for ship's use were taken from her, including a mainyard; at sunset burnt her. Shipped eleven hands.

11th.—Light winds and showery; 6 a. m., sail hove in sight. Boarding, found her to be an English brigantine bound to Demerara. He had heard of the Alabama destroying six vessels. Passed as the United States steamer Wyoming. 4 p. m., gave chase to a sail. Fired a blank cartridge and sent a boat off to her. She not heaving to, a shot was fired at her, when, to our astonishment, four lights were seen. All hands were immediately called to quarters, and every preparation made for battle. On our boat returning, we learned that the vessel boarded was the English bark Princess Royal, from Demerara, the crew having been afflicted with yellow fever; that she had shown two lights as a signal of being hove to, the third light being the brigantine's previously boarded, and the fourth our boat's. Secured the battery.

14th.—After general quarters had been gone through with a celerity highly gratifying, the men were highly eulogized by the commander and officers.

15th.—Moderate easterly wind. At daylight two vessels in sight. A three-masted schooner, being hull down to windward, did not chase; the other proved to be a Spaniard from Cadiz to Havana, we passing as the United States steamer Octorora.

17th, 2.20 p. m.—Island of Dominica in sight.

18th.—9.30 came to an anchor in Port Royal Harbor, Martinique. After the health officers had visited us, arrangements were made to lay in a stock of provisions, &c. A most enthusiastic reception was given by the inhabitants, both civil and military. Invitations to the officers were given *ad lib.*, the clubs being placed at our disposal. Our storeship Agrippina was lying laden with coal for our use. Letters were received by many on board. Landed all prisoners.

19th, 6.30 a. m.—A steamer was descried standing towards the harbor. On her coming nearer, we made her out to be a large bark-rigged vessel. At 7.15 all doubts as to her nationality were set at rest, the stars and stripes being hoisted at her peak and apparently a heavy armed vessel. On our communicating with the shore, it was found that the vessel (who was now within a mile of us) was the United States steamer San Jacinto, fourteen guns, viz: twelve 68-pounders, and two 11-inch shell guns. The governor issued notices about the town forbidding any communication with her, and prohibiting any supplies being sent to them. He also sent a communication to her commander, to the effect that "either he must come to an anchor, and if so to remain twenty-four hours after our departure, or else go out to sea and remain outside of three miles." He adopted the latter course. The governor stated that if we wanted to coal ship, it would be best for us to run down to St. Pierre and anchor under the forts. But it was deemed advisable to send the bark away to another rendezvous, she giving out that she was going to and clearing for Trinidad. The French gunboat Fata got up steam and anchored near us, to prevent any demonstration being made by the enemy while we were at anchor; her commander affording us every assistance, by showing us the best plan of escape the harbor afforded. At first it had been our captain's intention to go out and give the enemy battle, but after deliberation he determined to wait until darkness set in. At 1 p. m. the English mail boat passed the harbor. Before sundown every preparation had been made for battle, the enemy apparently pretty active in making preparation also; the broadside guns being loaded with shot and the pivot guns with shell. 7.15 p. m., "all hands up anchor," which was soon accomplished. All lights were then extinguished, and we steamed cautiously across the harbor along the shore. 8 p. m., dismissed the pilot, and called all hands to quarters, and run out the guns, all expecting to hear a bang from the enemy. Signal lights were observed from a Yankee vessel in harbor. The night was very favorable to us, the enemy's vessel not having been seen since the last particle of daylight allowed us to see anything; she then being about the center of the harbor on the alert. After the pilot had left us, the engines were set a-going, and away we steamed at the rate of fourteen knots an hour. At 9.20, all danger of interception being over, the guns were run in and secured, and all hands piped down. We then shaped our course towards Blanquilla, at which place we had made arrangements to meet the bark. We learnt afterwards that the San Jacinto had two boats on the lookout that evening, and had a set of signals instituted, by which a Yankee vessel inside the harbor could afford him information of our movements. I believe the authorities arrested her captain for signaling our departure; yet, notwithstanding the facilities at the San Jacinto's command, they *blockaded the port four days and nights after we left.*

The previous evening a drunken disturbance took place on board, by which it was found necessary to call the hands to quarters to quell it. It appeared that the deserter from the Sumter (of whom mention has been made elsewhere) had slipped down the cable, swam to a boat, and returned on board with a great quantity of spirits, and had handed it round to the crew, and all unknown to a single officer, he not tasting a drop himself—thus showing that his aim was to cause a mutiny on board. Those of the men that were inflated, or rather infuriated, with liquor, were placed in double irons, with a few exceptions; these, in addition to irons, were gagged, and bucket after bucket of water thrown over them, until they became partially sober. A short time previously one man had been stabbed severely in the arm. The officers and some of the petty officers were fully armed—the captain having given orders to that effect, and to cut down the first man that hesitated to obey an order. The scoundrel Forrest was triced up in the mizzen rigging two hours on and two off.

20th.—Fine. No sign either of ships or land.

21st.—Reduced sail to top-sails and hove main-top-sail to the mast. 5.10 a. m. filled away again; 10 a. m. saw the Agrippina, and signaled her to follow. Saw the land and a ship at one o'clock. At three got up steam and stood in towards Blanquilla. Drawing in towards the harbor we observed a schooner at anchor. On coming within signal range she hoisted the stars and stripes; we answered by hoisting the same. Shortly after a boat put off from her. Coming on board (without undeceiving him) we asked him about the anchorage; after receiving satisfactory replies, we hauled down

the Yankee flag and hoisted the confederate ensign. Great, indeed, was the poor Yankee's astonishment. Captain Semmes told him that as he was at anchor he should not destroy his vessel; but that, for our safety, we should detain him, ordering the captain and mate to come on board every evening, and depart each morning to his own vessel. She proved to be the Clara L. Sparks, whaler, of Provincetown. At 4.30, anchored in seventeen fathoms. 5.30, Agrippina anchored.

22d.—At daylight, commenced coaling ship, which operation was finished by Monday at noon. Blanquilla is nearly barren, producing absolutely nothing. The inhabitants, three in number, occupied themselves in rearing a few goats, &c. A small quantity of water is obtainable, but so brackish as to be nearly unfit for domestic purposes.

25th.—While on shore we observed a schooner standing in. She showed English colors, and on boarding stated that she was four days from Barbadoes and bound to Curaçoa, and that the San Jacinto had left Barbadoes the day previous to her departure. The latter part of his story we credited, although believing him to be a Yankee scout. Exchanged three men with the bark.

26th, 7.15 p. m.—"All hands aft to muster." Sentence of naval general court-martial read to prisoner, who had this day been tried for insubordination, and inciting part of the men to mutiny, the men being in a state of intoxication at the time, and the prisoner perfectly sober. Said offenses being committed in the harbor of Port Royal, Martinique, on the evening of the 18th of November. The sentence was that George Forrest, A. B., forfeit all pay, prize money, &c., due to him; that all wearing apparel (except what belonged to him when previously captured) be taken from him, and that he be ignominiously dismissed the ship and service, placed in the hands of the master-at-arms, and conveyed on shore on the island of Blanquilla, with a stain of infamy upon him. A few appropriate remarks were then made by Captain Semmes, and the sentence carried out. 8.15 p. m., got under way and hoisted propeller.

29th.—Considerable excitement was caused by the lookout reporting a steamer on lee bow standing towards us; made her out to be a bark-rigged side-wheel steamer. From or rather in the direction she was steering, we concluded she was a French war-steamer bound to Martinique. 10.30 a. m. saw land on weather bow, the southwest part of Porto Rico. Saw two vessels, one a schooner hugging the shore; the other a bark standing to the northward. Shortened sail to allow her to come up to us, hoisting United States colors; the stranger hoisting English. Found her to be the Barbadoes.

30th, 6.10.—Sail reported on starboard bow. 8.45, another in sight, two points on starboard bow; chased the latter. 10.30, hove her to with blank cartridge; found her to be the Spanish schooner Neveaux. 12.45, saw two more; chased the one right ahead. 2 p. m. brought her to. Boarded and took possession of the bark Parker Cook, of Boston, bound to Hayti. Engaged until 9 p. m. transferring stores, then set fire to her. Filled away and stood northwesterly. Shipped one man.

1st December.—2.30 a. m. hove to. Filled away in chase of a vessel on starboard beam; 7 a. m. made another astern; found both to be foreign. 9.30 p. m. made a vessel under sail and steam on port quarter. Called all hands to quarters, and loaded the battery with shell, expecting every minute to hear a shot, a broadside, whizzing over or into us. The stranger showed two signal lights. Receiving no answer, he quietly steamed past us. Conjecture was busy as to his nationality, and as to his being a vessel of war or not. 10.15, piped down and secured the battery. We now man six guns on a broadside, transporting one of the midship thirty-twos to a port-hole near the bridge. The state of efficiency the men have arrived at reflects the highest credit upon both officers and men.

2d.—Saw the land and several vessels.

3d.—7.45 p. m., sail discovered on starboard bow; gave chase. At 9.10 fired a blank cartridge; no notice being taken of it, a shot was fired at him. This produced the desired effect. On boarding I found it to be the French bark *Feu Sacré*, of Nantes, from Port au Prince to Falmouth; we passing as the United States steamer *Winona*; her captain protesting against the United States vessels annoying him.

4th.—Light winds and fine. Cruising in the windward passage, hoping to meet one of the Californian mail steamers, one being expected about this date.

5th.—Still cruising in the passage between Cuba and St. Domingo. Saw several vessels, among which was a schooner showing Yankee colors. Boarded and took possession; the Union, of and from Baltimore, to Jamaica. Her cargo being English, she was ransomed, the crew of Parker Cook being transferred to her. Received news of Bragg's successful capture of baggage wagons, &c.; and also that seven United States vessels of war were off the northern ports, expecting that we were going to attack their sea-ports.

6th.—9 a. m. hoisted up the propeller.

7th.—Several sails seen. At 2.15 p. m. a sail descried on starboard bow; in a short time made her out to be a brigantine-rigged side-wheel steamer. Steam was immediately got up, the propeller lowered, sails taken in and furled. All hands called to

quarters, the battery loaded with shell and run out, and every preparation made for a "mill." Everybody in the best possible spirits and eager for a fray. The celerity of the men in the preparations for battle was remarkable, giving proof of the spirit that actuated them. The steamer kept heading for us until 2.45, when we fired a blank cartridge and hoisted the confederate flag. No notice being taken of it, a broadside of six guns were trained on her, awaiting the order to fire. We recognized her as the United States mail-boat Ariel, of and from New York, to Aspinwall. The steamer turned and made for off. The order was then given to train and fire the pivot guns at her; a second order was given to fire at her smokestack. In the position she then was her foremast was in a line with the smokestack. Both guns were then fired, one shot of which struck the foremast about ten feet from the deck, taking away two-thirds of it, the stick still standing; fortunately they did not explode at the time, else the carnage among the passengers would have been frightful. She then hove to. A boat was sent on board, and the captain brought on board us with his papers. Three boxes of specie, a 24-pounder rifled gun, one hundred and twenty-five new rifles, sixteen swords, and about one thousand rounds of ammunition were quickly transferred to our vessel, there being on board one hundred and forty officers and men (marines) going out to join the United States Pacific squadron, and about five hundred passengers, men, women, and children; several naval and military officers being also on board. The military were paroled. On boarding, the marines were found drawn up in fighting order. From the captain of the steamer I learnt that the marine officers first advised the surrender of the vessel. The Yankees said that they had not the remotest idea we should dare show ourselves in that part of the world. Received newspapers up to the 1st December. In the evening, two officers, two engineers, and ten men were sent on board as a prize-crew; her captain remaining on board our vessel.

8th.—Still cruising in the same passage, on the lookout for the homeward-bound steamer due about this time. Prize being near us, 1 p. m., our chief engineer went on board to disable her machinery—orders also being sent to throw overboard her sails, so that in the event of our being engaged with any other vessel she could not escape. It was our intention to tow her into some port and land the passengers, then to destroy her, first replenishing our stock of coal, provisions, &c. At 7.15 p. m., on account of the women and children, we determined to run for Jamaica. Accordingly the "bouquet of the steam chest and a steam valve" were sent on board the Ariel again, with orders to get up steam and follow us as quickly as possible. While doing the above, a steamer was reported on our starboard quarter. All hands to quarter, making towards her; nearing her it was found to be a bark. On boarding, found her to be a German. Secured the battery and stood for prize, 11 p. m. Stood on course 9th. In the evening Morant Light was distant about five miles, 7.15 a. m. Slowed the engines, intending to run in on the morrow. 8.15 p. m., a sail hove in sight. Got ready for action. Coming up with her and boarding, we found she was a foreigner from Kingston, Jamaica, bound to Europe. Understood from her that the yellow fever had broken out, so it was determined to ransom the Ariel and let her go. Just, however, as the order was given to go ahead, the chief engineer reported that "the brackets and guides of the safety valve" were broken. The utmost caution was observed to prevent any on board the Ariel knowing the disaster that had fallen upon us. While the boat was dispatched to bring off the engineers (who had been on board the Ariel to take charge of her engines) and the captain to make arrangements relative to a bond, the propeller was hoisted up and sail made upon our vessel. Shortly after she was ransomed, and the prize officers and crew returned on board. The Ariel when last seen was steering south-southwest. The passengers, civil and military, highly eulogized our prize-crew for their quiet, orderly, respectful conduct. From the papers taken we read some important news; foremost of which was the proposal of France and the rejection by England of the intervention question. Its rejection we supposed arose through the discord that was known to exist upon this question in the British cabinet. Then, again, the immense navy possessed by the United States caused us to feel considerable uneasiness for our seaboard cities. The fearful disadvantages under which we labor compared with the vast resources of the United States, is in itself fearfully alarming. Our only trust is in God and our strong arms—*Dieu et mon droit*. Soon after the departure of the Ariel, we steered to the north and east, standing off and on the island of Jamaica, close under the land, keeping as much as possible out of the track of vessels. The whole staff of engineers had, up to about midnight of the 11th, been working night and day repairing the machinery. Great, indeed, was our joy on its completion. Steering to the north and west, nothing to vary the monotony of a sea life; cruising under small sail.

15th, noon.—Hauled up towards Cape St. Antonio on the western extremity of the island of Cuba.

16th, 8 a. m.—Hove to on port tack; wind east-northeast, quietly awaiting the arrival of anything in the shape of a homeward-bound Californian mail steamer, or in fact any little thing that might turn up in our way; until the 19th, strong gales with heavy sea from the northeast heading northwesterly.

21st.—A steamer descried on starboard bow, steering east, supposed to be a French vessel of war, making for an anchorage or rendezvous.

22d.—Moderate breeze. On account of the many dangerous reefs it was deemed advisable to let go the kedge anchor. A breeze springing up, we let go the port anchor.

23d.—About 10 a. m. hove up and got under way; moderate breeze. 2.30 p. m. sail discovered on port bow. It proved to be the *Agrippina*. 3, land descried on starboard bow, our course being southwesterly. At 5.15, came to an anchor in ten fathoms, Las Arcas rocks, bearing north-northwest, being about one hundred miles west-northwest of Campéché. 6.30, the *Agrippina* anchored near us.

24th.—Desirous of being protected from the strong northerly winds that blow here, an expedition, consisting of the cutter, gig, and whale-boat, under the immediate command of Captain Semmes, sailed to discover the best anchorage. 12.30, the boats returned, having successfully accomplished the desired object. 1.45, got under way, and anchored at 2.35 in nine and a quarter fathoms, between the three islands of Las Arcas; the bark following and anchoring near us—the propeller being kept down in case of any emergency.

25th, *Christmas day*.—Nothing to mark the difference between this and any other day, save the men being exempt from work; and in the evening all hands spliced the main-brace. Oh! for a good old English Christmas, with its merry associations and innocent pleasures. The three islands were of coral formation; and with the exception of a few gulls, no sign of life, either animal or vegetable, was seen. Employed coaling and calking ship. Sunday, mustered as usual.

30th, 2 p. m.—Finished coaling. A sail discovered on starboard bow. Made her out to be a brig beating to windward. Fresh easterly wind. Nothing unusual showed that 1862 had passed away.

1863 came in with bright, clear weather; an omen, I trust, of our future career. May this fearful war cease, that peace and prosperity be seen again. Still coaling and refitting ship generally.

Sunday, 4th January.—Expecting a gale from the southeast, and being in a dangerous position, it was deemed advisable to make every preparation for sea. Hands receiving coal, and supplying the bark with water.

5th *January*, 6.30 a. m.—In anticipation of news being received of Lincoln's proclamation, a tombstone, consisting of a board, about four feet in length and two in breadth, was sent on shore and placed in the most prominent position the largest island afforded. In black letters on a white ground was the following: "In memory of Abraham Lincoln, President of the late United States, who died of nigger on the brain, 1st January, 1863.—290." Upon a piece of paper, protected from the weather, was written in Spanish the following: "Will the finder kindly favor me by forwarding this tablet to the United States consul at the first port he touches at." This affair originated and was executed by the steerage officers. 10.40 a. m. got under way, leaving the bark at anchor. 11, made sail and hoisted propeller. Fine; east-southeast wind. Making towards Galveston, Texas. Pretty certain of falling in with something, either a merchantman or a vessel of war.

Sunday, 11th.—Fine moderate breeze from the eastward. Read articles of war. Noon, 18 miles from Galveston. As I write this, some are discussing the probabilities of a fight before morning. 2.25 p. m. light breeze. Sail discovered by the lookout on lee bow. Shortly after, three, and at last five vessels were seen, two of which were reported to be steamers. Every one delighted at the prospect of a fight, no doubt whatever existing as to their being war vessels: blockaders, we supposed. The watch below came on deck, and of their own accord commenced preparing the guns, &c., for action. Those whose watch it was on deck were employed in getting the propeller ready for lowering; others were bending a cable to a kedge, and putting it over the bow—the engineers firing up for steam. Officers looking to their side-arms, &c., and discussing the size of their expected adversary or adversaries. At 2.30 shortened sail and tacked to the southward. 4 p. m. a steamer reported standing out from the fleet towards us. Backed main-topsail and lowered propeller. 4.50, everything reported ready for action. Chase bearing north-northeast, distant ten miles. Twilight set in about 5.45. Took in all sail. At 6.20, beat to quarters, manned the starboard battery, and loaded with five-second shell—turned round and stood for the steamer, having previously made her out to be a two-masted side-wheel steamer of apparently 1,200 tons, though at the distance she was just before dark we could not form any correct estimate of her size, &c.

At 6.30, the strange steamer hailed and asked "What steamer is that?" We replied, (in order to be certain who he was:) "Her Majesty's steamer, *Petrel*." Two or three times we asked the question, until we heard. "This is the United States steamer —;" not hearing the name. However, United States was sufficient. As no doubt existed as to her character, we said, at 6.35, that this was the "Confederate States steamer *Alabama*," accompanying the last syllable of our name with a shell fired over him. The signal being given, the other guns took up the refrain, and a tremendous

volley from our whole broadside given to him, every shell striking his side, the shot striking being distinctly heard on board our vessel, and thus found that she was iron.

The enemy replied, and the action became general. A most sharp, spirited firing was kept up on both sides, our fellows peppering away as though the action depended upon each individual. And so it did. Pistols and rifles were continually pouring from our quarter-deck messengers most deadly. The distance during the hottest of the fight not being more than forty yards. It was a grand, though fearful sight, to see the guns belching forth in the darkness of the night sheets of living flame, the deadly missiles striking the enemy with a force that we could feel. Then, when the shells struck her sides, and especially the percussion ones, her whole side was lit up, and showing rents of five or six feet in length. One shot had just struck our smokestack, and wounding one man in the cheek, when the enemy ceased his firing and fired a lee gun; then a second, and a third. The order was then given to "cease firing." This was at 6.52. A tremendous cheering commenced, and it was not until everybody had cleared his throat to his own satisfaction that silence could be obtained. We then hailed her, and in reply he stated that he had surrendered, was on fire, and also that he was in a sinking condition. He then sent a boat on board and surrendered the United States gunboat *Hatteras*, nine guns, Lieutenant Blake, one hundred and forty men. Boats were immediately lowered and sent to her assistance, when an alarm was given that another steamer was bearing down for us. The boats were recalled and hoisted up, when it was found to be a false alarm. The order was then given and the boatswain and his mates piped "all hands out boats to save life," and soon the prisoners were transferred to our ship—the officers under guard on the quarter-deck, and the men in single irons. The boats were then hoisted up, the battery run in and secured, and the main brace spliced. All hands piped down; the enemy's vessel sunk, and we steamed quietly away by 8.30. All having been done in less than two hours. In fact, had it not been for our having the prisoners on board, we would have sworn nothing unusual had taken place, the watch below quietly sleeping in their hammocks.

The conduct of our men was truly commendable. No flurry—no noise—all calm and determined. The coolness displayed by them could not be surpassed by any old veterans—our chief boatswain's mate apparently in his glory. "Sponge." "Load with cartridge." "Shell, five seconds." "Run out." "Well, down compressors." "Left, traverse." "Well," "ready—fire." "That's into you." "Damn you, that kills your pig." "That stops your wind," &c., &c., was uttered, as each shot was heard to strike with a crash that nearly deafened you. The other boatswain's mate equally enjoyed the affair. As he got his gun to bear upon the enemy, he would take aim, and bang-in would plug her, he exclaiming as each shot told, "That's from the scum of England." "That's a British pill for you to swallow." The New York papers having once stated that our men were the scum of England. All the other guns were served with equal precision. We were struck seven times, only one man being hurt during the engagement, and he receiving only a slight flesh wound in the cheek. One shot struck under the counter, penetrating as far as a timber, then glancing off; a second struck the funnel; a third going through the side across the berth-deck and into the opposite side; another raising the deuce in the lamp-room; the others lodging in the coal-bunkers. Taking a shell up and examining it we found it filled with sand instead of powder. The enemy's fire was directed chiefly towards our stern, the shots flying pretty thick over the quarter-deck, near to where our captain was standing. As they came whizzing over him, he with his usual coolness would exclaim: "Give it to the rascals." "Aim low, my men." "Don't be all night sinking that fellow." When, for all or anything we knew, she might have been an iron-clad or a ram.

On Commander Blake surrendering his sword, he said that "it was with deep regret he did it." Captain Semmes smacked his lips and invited him down in his cabin. On Blake giving his rank to Captain Semmes, he gave up his state-room for Blake's special use, the rest of the officers being accommodated according to their rank, in the ward-room and steerages—all having previously been paroled—the crew being placed on the berth-deck; our men sleeping anywhere, so that the prisoners might take their places.

Of the enemy's loss we could obtain no correct accounts; a difference of seventeen being in their number of killed, the *Hatteras* having on board men she was going to transfer to other ships. Their acknowledged loss was only two killed and seven wounded. A boat had been lowered just before the action, to board us; as we anticipated, and learnt afterwards, it pulled in for the fleet and reached Galveston. From conversation with her first lieutenant, I learnt that as soon as we gave our name and our first broadside, the whole after division on board her left the guns, apparently paralyzed; it was some time before they recovered themselves. The conduct of one of her officers was cowardly and disgraceful in the extreme. Some of our shells went completely through her before exploding, others burst inside, and set her on fire in three places; one went through her engines, completely disabling her; another exploding in her steam chest, scalding all within reach. Thus was fought, twenty-eight miles from Galveston, a battle, though small, yet the first yard-arm action between two steamers at sea. She was only inferior in weight of metal; her guns being nine in number, viz:

four 32-pounders, two rifled 30-pounders, carrying 68-pound shot, (conical,) one rifled 20-pounder, and a couple of small 12-pounders. On account of the conflicting statements made by her officers, we could never arrive at a correct estimate of her crew. Our prisoners numbered seventeen officers and one hundred and one seamen.

We further learnt that the *Hatteras* was one of seven vessels sent to recapture Galveston, it being (although unknown to us) in the possession of our troops. We also found that the flag-ship *Brooklyn*, twenty-two guns, and the *Oneida*, nine guns, sailed in search of us. By their account of the course they steered they could not fail to have seen us.

13th.—Strong southeast breeze and heavy sea. At 1.20 a sail was reported right ahead. Made sail; on nearing her we hoisted Yankee colors; she replied by hoisting English. We soon recognized her to be the *Aggripina*, homeward bound to England. Fearing she would destroy our mail bag, we hauled down, hoisting our own flag, saluted, and kept on our course.

14th.—Fresh gale and head sea. 5 p. m. sail reported on port bow. 6 p. m. blew off steam, and set reefed fore and aft sails.

15th.—Gale continuing. 6 p. m. hove to, with a heavy squall, the wind chopped round to the westward. 2 p. m. made sail again.

16th.—Blowing heavily. A frightful sea running. 3 a. m., hove to. 6.30, made sail on her, keeping the screw turning with two pounds of steam, and going on comfortably at fourteen knots. Wind and sea moderating toward evening.

17th.—Strong breeze from the north. Took in all square sails, increasing steam. 2.50 p. m., two sails reported, one ahead, the other on lee-bow; but steering to the northward. At 3.30, came up with one who, on our hoisting Spanish colors, replied with English. Wind freshening.

18th.—Fresh gales. Squally, with rain, east-northeast.

20th.—Land right ahead—the western part of Jamaica. Prisoners overjoyed at the prospect of being released so soon. Passed two or three vessels, we showing French and Spanish colors. 5, stood toward Port Royal. 5.55, hoisted French colors, and received the pilot on board. 7, anchored in Port Royal harbor. Received an official visit from the flag-ship. 21st, our commander waited upon the governor for permission to land prisoners and effect the necessary repairs after our conflict. Permission was readily granted. As soon as our arrival became known the most intense excitement prevailed. It is impossible to describe the hospitable welcome we received, every one placing their houses at our disposal. Up to 9 p. m., visitors were constantly received, all expressing a most hearty, encouraging sympathy for our cause, and speaking hopefully of our prospects. Still the same enthusiasm prevails, visitors of each sex and every class coming on board, officers and men going on shore and receiving the most flattering attention. Hauled the brig *Reindeer*, of London, alongside, and commenced coaling, repairing damages, calking, &c. 11 a. m., paroled prisoners, and landed them ashore.

24th.—Still coaling, receiving provisions, &c. A report is circulating that two federal cruisers are in the offing, reported to be the *San Jacinto* and the *Iroquois*.

25th (Sunday), 7.30.—The English mail steamer left for St. Thomas. Fine light northerly air. Found that on the evening previous our commander held a levee, when he made a speech that made a very favorable impression, and correcting many erroneous ones that had been circulating here. The conduct of our men was anything but what it should have been toward each other—one watch going on shore on the 21st and not returning until the police had lent their assistance, thus causing considerable discontent among the rest of the men. Some of them had to be put in irons. The chief petty officer in irons also, for being absent without leave. Seven hands left here. Circumstances of a painful nature compelled our commander, though reluctantly, to dismiss the paymaster from the ship and service. After depriving him of his sword, &c., he was sent from the vessel on shore. The alternative of remaining on board, confined to his room, until the ship reached a confederate port, was left him. Until darkness set in we were delayed with visitors. At 9.25 p. m. got under way, and steamed slowly out of the harbor. 9.20, discharged pilot and steamed away to east-southeast.

26th.—Fine moderate breeze. At noon saw a vessel on port bow. At 1.30 came up with her; fired a blank cartridge and hove her to. On boarding she proved to be the bark *Golden Rule*, of and from New York to Aspinwall, having on board, in addition to a general cargo, the spars, standing and running rigging belonging to the United States brig of war *Bainbridge*, she having lost them in a recent gale off Aspinwall. Some of the running rigging, besides some stores, we took from her, then set fire to her. From newspapers we learned that the *Florida* had run out of Mobile, of the sinking, during a gale, of the *Monitor*, and of an unsuccessful attack by the enemy upon Vicksburg. Such a collection of news gratified us exceedingly. Disrated the master-at-arms to seaman, by sentence of court-martial, for being absent without leave.

27th, at 1.30 p. m.—A schooner reported on port bow. 7.45 p. m., a sail discovered steering to the westward. On boarding she proved to be Spanish. Reported having seen a fleet of seven United States vessels of war a day or two previously, to the north-

ward of Hayti. At 9.15 another sail seen. On her heaving to I boarded and took possession of the brigantine Chastelain, of Boston, from Guadeloupe to Cienfuegos, in ballast. Transferred prisoners and set fire to the ship.

28th.—Hugging the land pretty closely. 6 p. m. anchored off the city of St. Domingo. A Yankee brigantine at anchor. Paroled and sent all prisoners on shore. At 8 p. m. prisoners returned, stating that after dark people were not allowed to land. By this time the port officials came off, went on shore again, and returned, and said, "that under the peculiar circumstances in which we were placed our prisoners might be sent on board the government vessel that night," undertaking to land them next morning.

29th.—Received fresh provisions on board. At 9 p. m. got under way, steering to the eastward. Previous to leaving we heard that a Yankee fleet was cruising in the Mona passage, so everybody expected a brush before morning. Gunner's mate desirated to seaman, for quitting the ship without leave, pursuant to sentence of court-martial.

30th.—Fine moderate easterly breeze. Our usual good luck; passed through the passage without seeing a single vessel. Gave chase at daylight to a schooner on our bow. Saw a large bark standing to the westward. Carpenter's mate desirated to seaman, forfeiting all pay and emoluments due to him, for insolence and insubordination. Three seamen desirated for leaving the ship without permission, all the offenses having been committed at Kingston. 3.30 p. m., made all plain sail and triced up propeller.

Sunday, 1st February.—Fine; fresh breeze. Read as usual the articles of war. Saw a sail from the mast-head.

2d.—Saw a brigantine, which on boarding found to be the *Ida Abbott*, of Tortola, from Bathurst, west coast of Africa, bound to New York. Passed as the United States *Iroquois*. In the afternoon some excitement was caused by the appearance of a long, low-masted, rakish-looking craft. She hoisted what I took to be our private signal. We answered it. She then hauled down and displayed their flag, a Hamburg one. On boarding her we found her to be forty-six days from Cardiff to New York. This noon an affair occurred which, so far as it resulted in itself, was comparatively a trifle, yet might have entailed the most serious and disastrous consequences upon us. It appears that through the carelessness of those engaged in the spirit-room some liquor was spilt on a nearly naked light, which of course ignited instantly. A timely application of blankets soon stopped it, else the fire would have soon enveloped the after-part of the ship. As soon as the captain was acquainted with it he ordered all hands to be called to quarters, but ordered the retreat as soon as he heard of its being extinguished. The captain of the hold was placed in irons.

3d.—Fresh southerly wind. At 2.30 p. m. saw a vessel coming toward us. We hoisted the Yankee flag. The stranger did the same. Hove her to, boarded, and took possession of the schooner *Palmetto*, of and from New York, to Porto Rico, ten days out, with lumber, provisions, &c. Took from her a considerable quantity of crackers, cheese, &c. Removed prisoners and set fire to prize.

Previous to the capture of the *Ariel* the captains of prizes were in irons on deck, but after her capture they were allowed to mess in the steerages.

4th.—Chased a brigantine; proved to be a Spaniard.

5th.—Cold northeast winds. Saw two vessels toward evening; darkness coming on, no attempt was made to chase.

11th.—Have only seen one vessel up to to-day. Boarded the schooner *Hero*, of and from Yarmouth, Nova Scotia, to Barbadoes. Gave our name as the United States steamer *Dakotah*.

13th.—Light south-southwest breeze, 2 p. m. Sail reported standing to the south-east. To her we showed United States colors, she showing English ones. Continued our course without speaking to her. Strong northerly winds until the morning of the 17th, with a succession of light winds until

21st, at 7 a. m.—The inspiring and welcome cry of "Sail ho!" was heard from the mast-head. All sail was made in chase. Chase bearing one and a half points on weather bow. By 10.30 two more vessels were seen. We then tacked ship and stood toward the other two. 11.30, observed them signaling to each other, then part company, each on a separate tack. We then stood for the ship, hoisting Yankee colors. 12.30 fired a blank cartridge. No notice being taken of it, another was fired, hoisting our own colors; still no notice was taken of it. Steam was got up, and the propeller lowered. The rifled gun's crew were called to quarters and a shot fired over her. The gun was loaded a second time and trained upon him, and its captain just going to pull the lock-string, when she hove to. A boat was dispatched with an officer and five men with instructions to make all sail and follow the *Alabama*, who immediately went after the other one. Coming near her she fired a blank cartridge, which caused her, at 3.30, to heave to. Boarded; and on her captain coming on board with his papers we found her to be the bark *Olive Jean*, of Boston, thirty days from Bordeaux, with a general cargo of wines, brandy, &c., &c. His crew and one passenger were sent on board our ship and the bark set on fire. Stood for the other prize. She proved to be ship *Golden Rule*, of New Bedford, from Clinchac to York, laden with guano. Removed the prison-

ers and applied the match. Shipped two men. 8.55 p. m. drew off steam and hoisted the propeller.

23d.—This morning three vessels in sight ahead. Made all sail in chase. Light northerly airs. 11.15, there being no wind, got up steam and lowered the propeller, giving chase to a large ship right ahead. At 12 came up with her, hoisting Yankee colors, the chase hoisting English, dipping it to us. We then hoisted the confederate ensign, the ship dipping to it also, the male passengers cheering and ladies waving handkerchiefs. On boarding she proved to be the ship *Prince of Wales*, from Melbourne to London, eighty days out. Gave her steam again and chased another, who, on boarding, proved to be the English bark *Charles Lambert*, from Chili to Swansea. Chased another, who, on boarding, proved to be the French bark *Gil Blas*, from Buenos Ayres to Havre. Sent on board her two men, natives of France, taken prisoners on board the *Olive Jane*. Exchanged colors with another English vessel. At 3 hoisted propeller. Made sail; at 3.30 hove to. 10 p. m. made sail.

24th, 2.45 p. m.—Sail reported on weather bow. In reply she showed French colors. Chased the other, who, on boarding, was found to be a Portuguese brig, bound to Lisbon. This day boatswain's mate Horwood and fireman McFadgan's term of service expired.

25th.—Fresh southwest breeze. Two sails reported—one ahead, the other abeam. Coming up with one she showed Dutch colors. Made for the other fellow. Coming up and boarding her I found she was the English brig *Cedar*, from Guayaquil to London. Reduced sail to topsails and jib. At midnight a large sail was reported, running before the wind; made her out to be a four-master; called all hands to quarters; got the guns ready for loading, and hailed her; the answer, however, being scarcely audible. We announced our name, and ordered him to heave to. On boarding, it was found to be the steamship *Sarah Sands*, from India to England, one hundred and forty days out. Secured the battery and piped down.

26th.—Moderate west-southwest breeze. Two vessels in sight; stood toward one. By 10 o'clock six vessels in sight. Saw four more toward evening. Boarded one, who proved to be a Hamburger. Exchanged colors with many vessels, all English and French.

27th.—Eight vessels in sight. Exchanged colors with a Portuguese brig. Saw a ship and brig exchanging signals. Coming up with the ship we found, by signal, that she was the *Henry*, of St. John, New Brunswick. In answer to our signal we found that the ship ahead was the *Washington*, of New York, from Callao to Cork. Made sail in chase; fired a blank cartridge and hoisted our own colors. No notice being taken of it a shot was dropped within five feet of her stern. She then hove to. Boarding, we found our information respecting her to be true, her cargo proving neutral. She was ransomed, on agreeing to take our prisoners. After paroling them they were transferred, and the vessel allowed to proceed on her course. The *Henry* being a suspicious-looking craft, was boarded, and found to be what they represented themselves to be. Evening, two vessels in sight. 10.30, another seen on lee bow. 11.15, hailed and ordered her to heave to. On boarding, found her to be the English ship *Glendower*, from Foo-Choo to London, with a valuable cargo of tea, silks, &c. Discharged and transferred the two men whose term of service had expired to the *Glendower*, her captain agreeing to land them in England.

28th.—Light airs. Two vessels seen to the southeast. Signalled one, the English ship *Schomberg*, from Sourabaya to Amsterdam. Passed as the United States steamer *Dakotah*. Signalled the other, the English bark *Three Bells*, from South Australia to London. Gave our name to her as the United States steamer *Iroquois*. 5 p. m., two more in sight. 7 p. m., boarded the French ship *Alphonse Leyard*, from Batavia to Nantes. During the night saw two vessels.

1st March, 6.30 p. m.—Hove to, boarded, and took possession of the Yankee ship *Berthiah Thayer*, of Rockland, from Callao to Cork. Having a neutral cargo on board she was ransomed, and allowed to proceed on her voyage. A suspicious-looking bark, with the English flag at her peak, hove in sight. Fresh southwest breeze; set our flying mainsail; both vessels crowding every stitch upon them. At 4.30 p. m., after a most exciting chase, we came up with her. By signal, we found her to be the *William Edward*, from Bahia to Liverpool. At first we called our vessel the United States steamer *Ticonderoga*. After obtaining some slight information from her we announced our real name. 5.30, passed an Oldenburg brig. 8 p. m., a large bark hove in sight. After an hour's chase fired a gun; she not heaving to, ran down to him and hailed him. After repeated hailing she hove to. On boarding, I found her to be the bark *Nile*, of London, from Akyab to London, one hundred and nine days out. She corroborated a statement made by a ship some days ago, to the effect that the United States vessel of war was in the South Atlantic. Supposed to be the *Imo* by us.

2d.—Light winds. Daylight, sighted a large ship steering toward us. At 6, boarded and took possession of the ship *John A. Parks*, of Hallowell, from New York to Buenos Ayres, with a cargo of lumber, &c. Transferred her captain, his wife, and crew, also some stores, and set fire to the prize. 4 p. m., chased another. Hoisted the United

States ensign to her, she replying with English. At 6.30 I boarded and found her to be the bark *Miss Nightingale*, of Sunderland, from Colombo to London, the captain agreeing to take the captain's wife and two boys and land them in England. From this vessel received information that a Yankee bark had passed them a few hours previously.

3d.—Light westerly winds. Saw four vessels, but did not chase any. Hoisted United States colors to a brigantine, who, however, did not reply. Steering to the southeast.

6th.—Light east-southeast wind; cloudy. 10 a. m., sail discovered on weather bow. Tacked ship in chase. Boarded, and found her to be a Spaniard, from Santander. Gave our name as the United States steamer *Dakotah*.

7th.—Light east-southeast wind. 10 a. m., sail reported to windward, running. Hoisted United States colors; chase showed English. Hove her to by signal. On boarding, found her to be the English brig *Alleonor*, from London to Bermuda, with government stores. Our name, the Yankee steamer *Dakotah*. Her crew rather jocose at our Yankee losses.

Sunday, 8th.—Mustered as usual. Strong east wind. Exchanged colors (Yankee) with an English bark and a Norwegian bark and schooner. Very strong winds to the 14th; under reefed topsails, &c. We were considerably startled at 11.30 by the look-out singing out, "Sail ho! close aboard us, sir." Our helm was immediately placed astport, and we just sheered clear of a large ship, running to the northward. Ere, however, it had been done, the fact had been communicated to the captain, who ordered all "hands to quarters." All sail was made, and the ship bore round in chase. Beat the retreat at 12.

At 3 a. m. of the 15th came up with chase, fired a blank cartridge, and ordered her to heave to. On boarding, and her captain coming on board with his papers, she was found to be ship *Punjaub*, of Boston, with a general cargo, from Calcutta to London. Her cargo being English-owned she was ransomed, taking with her the prisoners taken from the *John A. Parks*.

16th.—Light northeast; fine; 6.30 a. m., descried a sail on the weather bow. Hauled up for her. At 8, by signal, found her to be the ship *Hermione*, of Liverpool, from Mauritius to Cork. Passed as the *Dakotah*.

21st.—Until noon this day we had a succession of light, moderate northeast winds. At 11.30 a. m., three sails in sight; steering to the southward made sail for chase. One showed Dutch colors; darkness prevented us making out the others.

22d.—Heavy rains and light winds until noon, when it cleared up. Three vessels in sight. Exchanged colors with one, an English bark.

23d.—Heavy rains. At 10.30 a. m. hoisted Dutch colors to a large ship standing northerly. She replied with the stars and stripes. Of course we invited her captain on board with his papers, by which we found that she was the ship *Morning Star*, of Boston, from Calcutta to London, with a general cargo. The cargo proving neutral she was ransomed. 1 p. m., four vessels in sight. Exchanged Yankee colors with an English bark. Bore away for a schooner. At 5, chase answered with United States colors. Boarded, and took possession of the schooner *Kingfisher*, whaler, of New Bedford, with twenty barrels of oil, having (fortunately for them) transferred two cargoes to neutral vessels, for shipment home, a short time previously. Reported having left the United States ship of war *Ino* at Ascension a fortnight ago. Our fellows delighted at the prospect of a brush with her.

25th.—Light airs. Saw several vessels yesterday. Seven in sight to-day. At 11 a. m., boarded the English ship *Pizarro*, from Liverpool to Valparaiso, thirty-seven days out. At 2.30 I boarded the Dutch brig *Isabella*, from Liverpool to Melbourne. A large double topsail-yard ship being to leeward, the captain of the *Isabella* told me he thought it was the Yankee ship *Eastern State*. We immediately made all sail in chase. Soon three vessels, two ships, and a bark were seen. At 5 we hoisted Yankee colors. Both ships hoisted the same. Boats were lowered, one under M. M. Evans, boarding and taking possession of the ship *Nora*, of Boston, from Liverpool to Calcutta, laden with salt. The other, on boarding, I found to be the ship *Charles Hill*, of Boston, from Liverpool to Montevideo, laden with salt. The bark showed Spanish colors, but suspecting she was a Yankee we made sail in chase, prizes following. Boarding her, she was found to be *head de* Spanish. About thirteen tons of coal, besides a quantity of provisions, were taken from both ships. This occupied us until the evening of the 26th, when both were set fire to. The captain of each asserting that their cargoes were English owned, but having no papers to prove it they, of course, said no more about it. Ten hands shipped.

28th.—Many vessels seen, both yesterday and to-day. 10 a. m., boarded the English bark *Chili*, from Cardiff to Coquimbo, thirty-three days out. We as usual passed ourselves off as Yankees. She reported that the *Alabama* had whipped a vessel twice her size, and strongly recommended us not to attempt fighting her should we meet. Made sail in chase of a vessel right ahead.

29th.—Light variable winds. In chase of three vessels right ahead. At 5.30 crossed the equator.

30th, a. m.—Showery. Boarded the English barque *Sinope*, from Cardiff to Rio Janeiro. Found that one of the vessels ahead was a Frenchman.

1st April, a. m.—Variable winds, with occasional rain; p. m., fresh north-northwest wind. Two vessels in sight.

2d.—Variable southeast winds, with squalls. The same vessels still seen.

3d.—Squally. Chased a suspicious-looking ship. Called all hands to quarters. On boarding, we found her to be the French ship *Mathilde*, from Havre to Rio Janeiro. Southeast trade wind, p. m.

4th.—Light southeast wind. Seven vessels in sight. Chased one, who toward evening showed what we supposed to be Yankee colors. 8 p. m., wind growing light, lowered a boat and sent M. M. Evans in chase. Ten, chase stood down for us. Her captain coming on board with his papers, we found that she was the ship *Louisa Hatch*, of Rockland, twenty-eight days out, from Cardiff to Point de Galle, laden with coal.

5th.—I was sent on board to take charge. I remained on board until the 17th instant. 6 a. m., four sails reported to be in sight. Chased one, which proved by signal to be an English bark.

6th.—At 6 a. m., made a schooner on port bow. Hauled up and made sail in chase. 7.40, sail reported on lee bow. 9.30, got up steam and lowered propeller, and stood for schooner. 12 p. m., came up with her; found to be a Portuguese. Chased another; fired a blank cartridge; she not heeding it, fired a shot across her bow; she then hove to, and proved to be a Brazilian. Kept away for prize ship *Louisa Hatch*; 1.45, came up to her, blew off steam, hoisted propeller, made sail, and stood on course.

7th.—Made sail in chase of a vessel ahead. 5.30 p. m., reduced sail—whole sheets of water pouring down; in fact, the heaviest rain ever seen by any on board.

8th.—I came on board and received further instructions. Pressed the captain of the schooner *Kingfisher* into the service to pilot the prize into harbor. Sent him, the steward, and his wife, of the *Nora*, on board the *Louisa Hatch*. Received the mates on board.

9th.—Two vessels in sight. 9.30 p. m., land reported in sight. 9 p. m., got up steam, lowered propeller, took in all sail, and took prize in tow. Coaling ship in boats.

10th.—Prize still in tow; coaling ship; tow-line parted twice, so knocked off coaling, and stood for the anchorage off the island of Fernando de Noronha. Both vessels under confederate colors. 2.45 p. m., came to an anchorage in thirteen fathoms. Hauled prize alongside, and commenced coaling.

11th.—On account of heavy swell, cast off prize at 7.30 a. m. Coaled by the boats.

12th.—2 a. m., saw a steamer's lights. Called all hands to quarters. Finding she stood on her course, piped down. During the day saw a vessel. Coaling.

13th.—Expecting a strong breeze; took all hands on board from prize.

14th, a. m.—Dispatched officer and crew to prize again. Still coaling.

15th.—This morning finished coaling. Two vessels seen standing off and on the land. Two boats from vessels observed going to the *Louisa Hatch*. 1.15 p. m., started under steam after the two vessels. 2.30, boarded, and took possession of the whaling brigantine *Kate Cory*, of West Port. At 3 p. m. came up with bark *Lafayette*, of New Bedford, whaler; set fire to bark. 5 p. m., took brigantine in tow, and stood for the anchorage. 7.30, anchored in fourteen fathoms water: pyramid bearing southwest one quarter west; eastern part of island north-northeast.

16th.—Paroled all prisoners and sent them on shore. Provisioning from prizes. Sent twenty-one days' provisions on shore for use of prisoners—one hundred and forty in all.

17th.—5.30 p. m., ship *Louisa Hatch* and brigantine *Kate Cory* slipped cables and proceeded seaward. 7 p. m., both vessels being five miles from land were set on fire. Mr. Evans and myself returned on board by 9 p. m. Shipped four men.

Fernando de Noronha is a Brazilian penal settlement. There is an abundance of live stock; but vegetables are rather scarce. There is good water, but owing to the surf it is at times difficult to be obtained. The anchorage is unprotected from western winds.

18th.—Several vessels in sight. Awaiting the arrival of our store-ship.

21st.—6 p. m., a small schooner got under weigh and proceeded to sea, her destination being Pernambuco, conveying as many of the crews of our prizes as she could carry.

22d.—At 9.30 a. m. got under weigh, steering to the eastward. 4.30 p. m., hoist propeller steering southwesterly.

24th.—Saw a vessel yesterday. 2 a. m., a vessel hove in sight, chased, hailed, and ordered him to heave to. On boarding, she proved to be the bark *Nye*, of New Bedford, whaling, having on board five hundred barrels of oil. Transferred prisoners and burnt prize. 2 p. m., saw another vessel.

26th.—Fresh wind. 2.30 p. m., sail in sight, standing southerly. 4, hoisted Yankee colors to her; chase not replying, fired a blank cartridge. She then hove to. Boarded and took possession of the ship *Dorcas Prince*, of New York, from there to Shanghai, forty-four days out, with coals, bread, &c. Took from her a quantity of stores. 11.30 p. m., burnt her. The captain having his wife with him, was, as usual, accommodated in the ward-room.

29th.—Fine moderate breeze. 2.30 p. m., gave chase to a sail on the weather bow. 5, brought her to with blank cartridge. On boarding, I found her to be the Hanoverian brigantine *Elise*, Rio Grande, ten days out, bound to England.

1st May.—Fine light winds. 5.45 a. m., made a sail on weather bow; chased. On

boarding she was found to be the English brig *Hound*, from St. John's, New Brunswick, to Mauritius. Obtained news up to the 1st April. Saw and chased several vessels during the day. All had neutral colors. Exchanged signals with the brig *Geerdina*, from Trieste to Bahia.

3d.—Fresh breeze. Two vessels in sight; gave chase. 12.15, came up with her. On boarding, she proved to be the bark *Union Jack*, of and from New York to Shanghai, thirty-five days out, having on board as passengers a United States consul for Chee Foo; a gentleman and his wife. The captain having his wife, servant, and two children. A general cargo. Gave chase to the other. At 2.45 p. m., came up with her. On boarding, I found her to be the ship *Sea Lark*, of and from Boston to San Francisco, with a general cargo. Transferred prisoners and stores, and set fire to them. Both vessels report having seen a vessel burning in latitude 0.50 south, longitude 32.00 west.

4th.—Boarded a French brig—Montevideo to Havre.

5th.—Saw and boarded several vessels, all English and foreign.

10th, p. m.—Two vessels in sight. Boarded one a Norwegian, thirty-six hours from Bahia. No American war vessel there when she left.

11th.—Exchanged colors with a foreign brig. Saw several vessels. 12, got up steam and lowered propeller. 5.30 p. m., anchored in Bahia Harbor. Health officers visited us. Stated that three American war vessels were off the coast.

12th.—The most intense excitement was created by our appearance. The United States consul officially demanded that the *Alabama* should be detained, to be delivered up to the United States government, to answer for the ravages committed upon their commerce. Obtained (rather reluctantly given) permission to land prisoners and get supplies. Visitors innumerable coming on board. The most unbounded hospitality and kindness shown, with every mark of sympathy, by all. Per the English mail-boat, Captain Semmes sent a message to the commander of the United States steamer *Mohican*, to the effect, that if the *Mohican* would come where Captain Semmes could conveniently meet her, he would have great pleasure in paying some attention to her, circumstances not permitting Captain Semmes to go out of his course to meet anything. As the mail-boat passed, both passengers and crew cheered us.

13th.—At 3 a. m. a steamer was observed to anchor about two miles distant. At daylight saw it was a brig-rigged screw steamer; presenting unmistakable signs of being a war vessel. 8 a. m.—Great was our astonishment to see the stars and bars hoisted at her peak. Private signals were exchanged. She then got up steam and anchored near us. Soon after sent a boat on board, when it was found to be the Confederate States steamer *Georgia*, five guns, Lieutenant Commander Maury. Had captured one vessel. Crowded with visitors. Bahia has a very pretty appearance from the bay; which is not altogether lost on landing. Victoria, the place where the English residents live, is a charming spot.

14th.—The officials (nearly all English) connected with the railway gave an excursion to the officers of the *Alabama* and *Georgia*. A most numerous assembly joined it. An exceedingly pleasant day was spent.

15th.—A ball in connection with the above was given. Both commanders, with a numerous staff of officers, went and enjoyed themselves. After supper was served, in reply to a toast, Captain Semmes made a suitable return, which, on its conclusion, was most enthusiastically applauded.

17th, Sunday, 3.30 p. m.—According to an invitation given by Captain Semmes, a party of ladies and gentlemen (chiefly English) came on board. After a minute inspection they sat down with the officers on the quarter-deck and partook of a slight refreshment. 5.30 p. m., visitors left the ship. An official came on board with an order for us to leave in twenty-four hours after receipt of the message. Captain Semmes's reply was, that if he had thirty tons of coal on board by that time he would willingly comply, otherwise he would not.

19th.—Received an intimation from the authorities to the effect that as they had strong suspicions that the bark *Castor*, of Liverpool, lying there with coal for the *Georgia*, had also a quantity of arms, &c., to be transferred to the *Alabama*, they could not permit us to coal from her. So took coal from the shore.

20th.—Considerable surprise was manifested by the desertion of the master-at-arms, James King, of Savannah, his antecedents proving his devotion to the southern cause. He was a pilot of considerable standing in his native place. Another deserted.

21st, 3 a. m.—Finished coaling. Received farewell visits. 12, got under way and proceeded seaward; the *Georgia* expecting to sail the following day. 3 p. m., showed Yankee colors to a Hamburg brig. 4. Hoisted propeller and made sail.

22d, a. m.—Passed a large frigate standing towards Bahia. 5 a. m., two vessels in sight.

23d.—Moderate south-southeast wind. Steering easterly. Saw a large ship, which, on boarding, I found to be the English ship *Virginia*, Liverpool, forty-two days to Sydney. Her passengers and crew giving us three cheers as we left them.

24th.—Fresh southeast wind. 4.30 p. m., sail in sight. On boarding she proved to

be a Dutch bark, Amsterdam to Batavia. Told them we were the United States steamer Sacramento.

25th.—Strong south-southeast wind, with a heavy sea. 10.30 a. m., two vessels in sight; gave chase. Another vessel seen. Hoisted United States colors to a ship; she not replying, signaled, "I want to speak to you," upon which she stood toward us and hoisted Yankee colors also. On boarding, took possession—the ship *S. Gildersleeve*, of New York, Sunderland to Calcutta, laden with coal. Chased a bark which, on boarding, I found to be the *Justina*, of Baltimore, Rio de Janeiro to Baltimore, in ballast. Chased another vessel, who proved to be Dutch. The *Justina* was ransomed and allowed to proceed on her voyage, taking with her the crew of the just captured ship.

26th.—Strong breeze. Gave chase to a bark, but eventually lost sight of her. Saw a vessel to which showed United States colors; she answered by showing on the

27th, Dutch colors.

28th.—Fresh breeze. Saw several vessels. 6 p. m.—Fired a blank cartridge, and hove to a large ship. On boarding I found her to be the English ship *Lady Octavia*, London, twenty-eight days to Calcutta. Obtained papers to 30th April.

29th, 2.30 a. m.—Sail discovered on starboard bow; set all sail in chase. 6 a. m.—Fired a blank cartridge and hoisted our own flag. No notice being taken of it another was fired, and a feint made with coal. She hoisted Yankee colors and hove to. On boarding she was found to be the ship *Jabez Snow*, of Bucksport, Cardiff, thirty-five days, to Calcutta. Took prisoners and provisions from prize and set her on fire. In consequence of the gross falsehoods made by released prisoners about the treatment they were subjected to the captain of her was placed on deck.

2d June, 3.20 a. m.—A sail discovered on weather-bow. Made sail, and at daylight hoisted United States colors to her. 6.15.—Fired two blank cartridges, chase showing United States colors. No notice being taken of it, at 11.30 a. m. fired shot from rifle gun, she being about four miles distant. She then hove to. Boarded and took possession of the bark *Amazonian*, of Boston, New York to Montevideo, with a general cargo. Removed prisoners and set fire to her.

3d, 10 a. m.—Chased a brigantine, which, on boarding, was found to be the *Widna*, of Hanover, London to Rio Janeiro. Sent ten days' provisions and all prisoners on board of her, her captain being presented with a chronometer for his kindness in taking them.

4th, 9.30 a. m.—Saw a large ship with foretop-gallant-mast gone, dead to windward. Chased until sundown. 6.35 p. m. Saw a burning vessel bearing west-southwest; stood towards it. 9.30. Saw a flash, then darkness. Supposed it to be a prize captured by some confederate vessel.

5th, 3 a. m.—Brought to with blank cartridge a large ship, standing southerly. On boarding she proved to be the ship *Talisman*, of and from New York, thirty-two days, to Shanghai, laden with coal. Took five passengers, (one a lady,) the crew, stores, and two brass rifled 12-pounders.* 5 p. m. Set fire to her.

6th, 2.30 p. m.—Saw a large ship to windward. On boarding she proved to be the (late Yankee) ship *Saint Leonard*, Hull to Calcutta. Transferred a passenger and lady to her.

7th.—Chased a bark until we lost her in a rain squall.

8th, 4 a. m.—Gave chase to a brigantine that turned out to be the *Hanoverian*.

9th.—Fresh gales. Saw a ship to windward.

11th, 2 a. m.—Saw a very brilliant meteor.

13th, 6 a. m.—Made a sail on lee bow, which, on boarding, was found to be English.

14th.—In the evening saw two vessels.

15th.—Saw a vessel on lee bow.

16th.—Chased a bark. Proved to be French.

17th.—Saw several vessels. In the evening saw a suspicious-looking ship. Beat to quarters, fired two blank cartridges and a shot, upon which she hove to. On boarding she was found to be the ship *Queen of Beauty*, from London, thirty-five days, to Melbourne, with passengers.

18th.—Made a light on port bow. Chased, and hove her to with blank cartridge. Proved to be the Norwegian brig *Iduma*, Rio Grande to Bahia.

19th, 4 a. m.—Saw a sail, gave chase. On boarding, I found her to be the Bremen bark *Brema*, Buenos Ayres, 13 days, to New York. Called ourselves the United States steamer *Dakotah*.

20th.—Two vessels in sight. Gave chase to a bark. The wind being light, and darkness coming on, got up steam and lowered propeller. At 7.50 p. m., I boarded and took possession of the bark *Conrad*, of Philadelphia, Buenos Ayres to New York, laden with wool. Sent captain and mates on board the *Alabama*. Prize hove to; (received written instructions.) Stood after the other vessel. Lost her in the darkness, so stood again for prize. 11.30.—Hove to till daylight.

21st, Sunday.—Preparing the prize for commissioning as a confederate vessel of war. Sent on board her provisions, coals, and the two brass guns taken from the *Talisman*,

* The gun captured from the *Ariel* was thrown overboard some time ago.

with a quantity of small arms. At 5 p. m., she fired a gun hoisted the confederate flag and pennant; both ships' crews manning the rigging and giving three cheers. She was then finally declared commissioned as the Confederate States bark Tuscaloosa, Lieutenant Commanding Low, late junior lieutenant of the Alabama; Acting Master Sinclair, executive officer, late midshipman; Masters' Mates, J. F. Niner, late seaman; and A. Marmelstein, late quartermaster. The vessels saluted each other and parted. Went after a vessel; she looked suspicious, went to quarters. On firing a blank cartridge she hove to. Boarding, it was found to be the English ship Mary Kinsall, Shields to Point de Galle. Her crew had refused to work her any longer unless the master made for a port, she leaking badly. A boy having fallen from aloft, hurt himself severely. Dr. Llewellyn went on board and rendered the needful assistance. Her master agreeing to take our prisoners, was rewarded with a chronometer. Shipped six men from prizes.

22d.—Saw several ships. Light winds and calms. The following promotions were made: Master A. Sinclair to be lieutenant, vice Low, promoted; Midshipman J. S. Bullock to be master, vice Sinclair, promoted.

26th.—Seeing a suspicious-looking craft, went to quarters. Proved, however, to be a Frenchman.

27th.—Since leaving the Tuscaloosa, we have been steering to the Cape of Good Hope; but, discovering our bread to be bad, turned back this morning.

29th.—Saw a large ship standing southerly; proved to be an English bark. Chased another; found her to be, by signals, the bark Ashur, of London. Strong southeast wind.

30th.—In the evening, boarded the English bark Medora.

1st July.—Chased a sail until 9 p. m. Saw another; chased her until the

2d, when, on boarding, she was found to be the ship Anna F. Schmidt, of Boston, from St. Thomas last, to San Francisco, general cargo. Transferred prisoners and stores, and burnt prize. Seven vessels in sight; one, on boarding, I found to be the (late Yankee) ship Thorndeer, of Greenock, bound to Calcutta. 8 p. m.—Made a sail on lee-quarter; wore ship in chase; fired a blank cartridge, to which chase replied with another. Called all hands to quarters, lowered propeller, and stood in chase, under steam. Loaded port battery with 5-second shells, and issued arms. Every one certain of a brush. Overhauled chase. Upon speaking, she proved to be her Majesty's frigate Clio. Secured the battery and piped down. Made sail.

4th.—Made a sail on weather-quarter.

6th, 2.30 a. m.—Sail descried one point on weather-bow. Gave chase. Paying no attention to two blank cartridges, fired a shot, which had the desired effect. On boarding, I found her to be the ship Express, of Portsmouth, New Hampshire, Valparaiso to Antwerp, laden with guano. Removed prisoners, bread, provisions, &c., and fired her. The captain's wife and servant were accommodated, as usual, in the ward-room. Proceeded again to the eastward.

17th.—Fresh westerly breeze. Noon, crossed the meridian of Greenwich.

22d, 11 a. m.—Made a sail; chased. On boarding, I found her to be the ship Star of Erin, of Belfast, Calcutta to London. Transferred the captain and lady of prize ship Express, and the captain of Anna F. Schmidt.

26th, Sunday.—Saw a suspicious-looking sail; gave chase. On boarding, I found her to be the ship Lillian, of St. John, cotton-laden, Bombay to Liverpool. Passing as the United States steamer Dakotah. Boarded a Dutchman, Batavia to Amsterdam. Chased another ship. He paying no attention to a blank cartridge, a shot was fired over her. She then showed her colors, and hove to. She proved to be the English ship Havelock, Bombay to Liverpool. Her captain corroborating a report made previously, to the effect that a steamer was observed under steam, steering easterly.

27th, a. m.—Saw a schooner; signaled her to heave to. Boarding, I found her to be the schooner Rover, of Cape Town, Walwich Bay to Cape Town. Had exchanged signals with a bark-rigged steamer the day previous. Large ship reported at sundown, bearing south. Three vessels seen during the night. Fresh south-southwest gale. The Lion's Rump, Cape of Good Hope, in sight.

28th.—Dassen Island on starboard beam, distance ten miles.

29th.—Saw a schooner on port bow. I brought her master off to pilot us in. 2.40 p. m., anchored in Saldanha Bay. Splendid bay. Fresh provisions abundant, but water scarce. A splendid harbor for a capital.

3d.—This day proved the most melancholy one since we have been out. Four officers left the ship in the dingy to go shooting. While in the act of drawing a gun toward himself (in the boat) it went off, at a distance of three inches from his breast, and its contents entered his breast, going through the lungs, and causing instantaneous death. The deceased was third assistant engineer, S. W. Cummings. His death caused universal sorrow. 5.15 p. m.—Passed his body on deck.

4th, 2.45 p. m.—Called all hands: "bury the dead." Passed the body over the side into a boat. Everything being prepared, the funeral party accompanied by a guard, left the ship for the shore. On landing, the body, with four men, was placed in a wagon. The guard also in a wagon. The officers in uniform on horseback. The pall-bearers

were Engineers Freeman, O'Brien, and Pundt, and myself. Arrived at the grave, the first lieutenant read the service, and after three volleys had been fired over the grave, and a temporary headstone placed, we returned on board.

5th, 6 a. m.—Got under weigh and stood out of the bay along the land in chase of a sail. Nearing her, it was found to be the Confederate States bark Tuscaloosa, Lieutenant Commanding Low. I boarded and brought him off to communicate with Captain Semmes. Took him off again and parted company. At 1.30 p. m. stood in chase of a sail. 3 p. m.—Overhauled him; we being under English colors. She then showed United States colors. Fired a blank cartridge, hauled down the English, and hoisted the stars and bars. Ran alongside and ordered him to heave to or we would fire into him. Showing no disposition to heave to, a musket shot was fired over him. After some delay she hove to. Sent Mr. Evans on board. Found her to be the bark Sea Bride, of Boston, from New York to Cape Town. We being five miles distant from land by cross bearings.* 3.10.—I was sent on board as prize-master with eight men. The captain, mates, and crew sent on board from prize. 3.30.—Came to an anchor in seven fathoms water in Table Bay. Banked fires. Lieutenant Wilson sent on shore to visit the governor. Visitors coming on board in numbers. 5.15.—English mail steamer Lady Jocelyn anchored near us; the crew cheering us as they passed. 10.30 p. m.—H. B. M. sloop of war Valorous anchored near us.

6th.—The enthusiasm displayed by the inhabitants of the Cape amounts almost to a frenzy. All day crowded with visitors. Sent on shore all prisoners. Sent the cutter with instructions to the prize bark Sea Bride. She was observed to stand out to sea. 8 p. m.—Cloudy threatening weather; strong northerly breeze.

7th.—Strong gales. Veered out ninety fathoms of cable, and let go the other anchor. Evening; blowing strong, with heavy sea. Contradictory rumors respecting the Sea Bride.

8th.—Moderate breeze from northwest. Hove up starboard anchor.

9th, 6 a. m.—Steamed out of Table Bay along the land. Saw a vessel on starboard bow. 8.35 p. m.—Made a sail right ahead. 11 a. m.—Overhauled and boarded the bark Martha Wenzell, of Boston, rice laden, from Akyab to Falmouth. She being at time of capture within three miles of a line drawn from headland to headland of False Bay, was in British waters, and therefore not liable to capture; consequently she was released. 2.30 p. m.—Came to an anchor in Simon's Bay, with both cables in seven fathoms. Official visits paid and received.

11th.—Calking, &c. Lost three hands by desertion.

14th.—The Chinese gun-boat Kwantung steamed out to sea. Reported having met the United States steamer Mohican off the Cape de Verdes. 6 a. m.—The Confederate States bark Tuscaloosa got under weigh. Visitors *ad lib.* Repairing ship. Mr. Mulnier and Mr. Schroder appointed master's mates.

15th, 11 a. m.—Got up anchor, and steamed out of Simon's Bay. 2.30.—Two sails reported on port bow. Boarded the English bark Saxon, Algoa Bay to Cape Town. 3.—Blew off steam and hoisted propeller. 11 p. m.—Made a steamer on lee bow, steering southeast.

16th.—Saw two vessels to windward.

17th.—Made a large ship on lee quarter. Stood in chase. 7.10.—Hove her to by signal. Proved to be the ship Broughton Hall, of Belfast, Bombay to Liverpool. Medical aid being required, Dr. Llewellyn was sent on board. 8.15.—Boat returned, and stood on course. Three vessels in sight before dark.

18th.—Made a large sail on weather quarter. Beat to quarters. Hove her to by signal. Proved to be the English ship Camperdown, Madras to London. Seven vessels in sight.

19th.—Chased and boarded the English bark Durbar, Natal to London.

21st.—Chased a vessel; found to be Dutch.

22d.—Chased and boarded the English ship Sarawak, Bombay to Liverpool, with cotton, &c., &c. Saw another sail.

23d.—Court-martial sentenced chief boatswain's mate, Johnston, to lose all pay and prize-money due to him, be confined in irons three months, and disgraced by a discharge from the ship. In a general order, the captain expressed his regret at having to confirm the above sentence, and stated further that the plea of drunkenness should not protect any offender from punishment, he believing that intoxication was a crime in itself. The charge was resisting and drawing a knife upon his superior officer while in the execution of his duty.

24th.—Tacked ship in chase of a sail to windward. Boarding, she proved to be the Dutch bark Minister Van Hall, of and to Amsterdam from Batavia, with sugar and tobacco.

27th, 5 a. m.—Stood in toward the land. Sounded at 10; sandy bottom in sixty-five fathoms. Boarded a schooner, the Flower of Yarrow, of Cape Town, from Ichaboe to Cape Town.

28th.—At 1 p. m., came to an anchor in thirteen fathoms, in Angra Pequena. 2 p. m.—

* See Sea Bride's log.

Got under weigh and anchored in the harbor. Found the Confederate States bark Tuscaloosa and prize bark Sea Bride at anchor. Officers and prize crew of Sea Bride returned. Since our departure from Simon's Bay the condensing apparatus was found to be out of order. Compelled to take twelve casks of water from a schooner.

30th.—Strong southerly wind. Put a man on shore, at his own request, in accordance with sentence of court-martial.

31st.—Got under weigh and stood out to sea. Strong southerly wind.

2d September, 6.30 a. m.—Saw a large sail to windward. 10.—Hove her to by signal. On boarding I found her to be the Punjaub, of and to London from Kurrachee, laden with saltpeter and cotton. 5 a. m.—Made a sail on weather bow.

3d, 2.15 a. m.—Saw a sail one point on weather bow. Made all sail in chase. At 3.15 hove chase to with blank cartridge. On boarding, found her to be the Isle O'May, of and to London, from Colombo, with coffee. Short allowance of water.

5th, 7.30 p. m.—A steamer passed us on weather beam. Supposed to be the Cape mail steamer.

8th.—Strong southeast wind. Two sails in sight. By signal found her to be an English ship from Bombay to Liverpool. United States steamer Dakotah.

9th.—Moderate wind. Eight vessels in sight; all English, and principally from Calcutta to London. Hove one to. Boarding I found her to be the Cameronian, of Liverpool, Calcutta to London, with a general cargo.

10th, 10.15.—Made a sail on weather bow, found her by signals to be an English bark, Calcutta to London. 8.30 p. m.—Sail in sight on weather bow. At 10.35, after hailing three times, and firing a blank cartridge, chase hove to. On boarding I found her to be the ship Flora, of Liverpool, from Manilla, with a general cargo.

11th.—At 5 p. m., made a bark on weather bow. Made sail in chase. 6 a. m.—Chase showed English colors.

Sunday, 13th.—At 6.17 a. m., saw high land right ahead. Found it to be Table Mountain. Cruising, land still in sight, until the

16th.—At 7.15 a. m. lowered propeller. 8.—Under weigh, steaming towards Simon's Bay. At 4 p. m. anchored in Simon's Bay. Learnt of the visit of the Confederate States steamer Georgia, and also of the visit of the United States steamer Vanderbilt, the latter leaving on the 11th instant.



APPENDIX No. VIII.

LETTER OF "HISTORICUS" ON THE ALABAMA.*

[From the London Times, February 17, 1864.]

THE CASE OF THE ALABAMA.

To the Editor of the Times:

SIR: It is greatly to be regretted that there should be found politicians on both sides of the Atlantic who seem for party objects to desire nothing better than to inflame and exasperate national animosities by demands and recriminations which are neither justified by the doctrines of law nor founded in the principles of justice. It is some consolation, however, to think that, while in America this course has been resorted to by the responsible government of the country, in England it has only found favor with an irresponsible opposition. Some recent orators in both houses of Parliament have been laboring to stimulate public indignation by endeavoring to persuade us that we have been the tame and spiritless victims of unmerited ill-usage. This view of the subject is founded on peculiar notions of law which they have thought fit to assume, and in accordance with which they have undertaken to criticise the action of the English government, and to denounce the conduct of the American prize courts. It is, however, satisfactory to observe that the vehement sallies of these unprofessional partisans have received no countenance from the eminent lawyers of whom the conservative party are justly proud. While these attacks rest on the unsupported authority of party politicians, they are not likely to make much impression on the public mind, or to work any considerable national mischief.

I am glad to observe that the attorney general—than whom on such a subject no higher authority is to be found—has fully confirmed the opinion which I have ventured on former occasions to express as to the general rectitude and fairness of the American prize courts. The grounds on which the decision in the case of the *Springbok* has been attacked show that the critics of the American judges are very little conversant with the elements of the subject they have undertaken to discuss. It is assumed that a shipment whose immediate and ostensible destination is to a neutral port is necessarily and absolutely in all cases innocent. This is, no doubt, as a general rule, true, but it is equally certain that, if this destination be only a section of a voyage whose real and ultimate intention is to a belligerent port, the mere interposition of a neutral resting place will not alter the real character of the transaction. The whole voyage will be regarded according to the reality, and not according to the appearance, and will be dealt with according to its real and ultimate, not according to its apparent and immediate, destination. This principle rests on the foundation of that which is known to jurists as the doctrine of continuous voyages. Those of your readers who may care to pursue this interesting and somewhat complicated question any further will find the authorities collected and discussed in two letters I printed on this subject in the summer as a supplement to my collected letters. The weight of the opinion of the attorney general may now be added to the authorities which are there cited.

But, while it is to be deplored that inconsiderate speakers in this country should disturb the public mind by unfounded complaints, it is still more a subject of regret and censure that the government of Washington, who can hardly plead the excuse of ignorance in these matters, should pervert the judgment of their own countrymen by persistent assertions of claims which they must know to be wholly unjustifiable. I have already in former letters, and especially in one which I had the honor to address to you on November 7, 1863, examined in detail the pretensions which the American government have advanced against England in respect of the capture of the *Alabama*. I do not propose to repeat the arguments, for I have never seen any attempt to dispute their conclusions. With every disposition to look at the matter in an impartial spirit, I do not believe that it is possible to find any basis, either of authority or of reason, to give color to such a claim. Upon this point the law and practice of nations alike are clear and settled. It is the *right* of every neutral state to prevent the violation of its sovereignty by the equipment within its territory of belligerent armaments. In a certain but more imperfect and restricted sense it is its *duty* to do so. But the injury arising from the violation of this right is an injury primarily and essentially to the neutral

* Transmitted with dispatch No. 599, from Mr. Adams to Mr. Seward, February 18, 1864. See vol. 3, p. 245.

and not to the belligerent. The neutral is in no sense an insurer to one belligerent against the wrongful acts of the other belligerent. Nor can any claim in the nature of damages arise against the neutral in respect of an injury which the neutral has involuntarily sustained. These are principles founded in reason, and established by authority, and they are decisive against the American claim.

But the former American practice is equally conclusive against their present pretensions. During the course of the war between Spain and her revolted colonies in South America the ports of the United States became the grand *offices* of the rebellious privateers. The South American seas were covered with cruisers fitted out in the American ports in violation of their foreign enlistment act. The instances of adjudication on suits for the restitution of prizes taken by these privateers in the American law books are numerous, but we may be quite sure that the recorded cases indicate a very small percentage of the captures thus effected. That being the state of things, the course adopted by the American courts and the government was this: When a prize captured by a cruiser thus unlawfully equipped was brought within the jurisdiction of the United States the prize was duly restored by legal process to its original owner. The government of the United States did not pretend to deal with the cruiser herself, (*vide* the facts and the judgment in the case of the *Santissima Trinidad*;) they distinctly repudiated all authority and liability in respect of captures by such vessels not brought within their jurisdiction, (*vide* "*La Amistad de Ruee*," 5 Wheaton's Reports.) And I venture to challenge the American government to produce a single example in which they acknowledged any claim to compensation for prizes taken by cruisers equipped within their ports to "prey upon the commerce" of Spain, or attempted any other redress than that of the restitution in *specie* of prizes brought *infra præsidia*. The terms of the Jay and Grenville treaty between Great Britain and the United States in 1795 (which was discussed at length in my letter of November 7) are, when properly understood, equally conclusive against the present pretensions of America. That being the case, it is lamentable, indeed, to see a responsible government, for the temporary political purposes of the moment, inflaming the passions and perverting the judgment of the nation with whose destinies it is charged, by preferring claims which it cannot sustain in right, and which it is notorious it is without the means of enforcing by might.

Before I quit this topic I must ask leave to offer a few remarks on some circumstances disclosed by the last papers on the subject of the *Alabama* laid upon the table of Parliament, (North America, No. 1, 1864,) which are likely to give rise to new questions of considerable delicacy and difficulty. The circumstances to which I refer will be found narrated at pp. 19-25 of the Parliamentary Paper, and have reference to certain transactions which took place at the Cape of Good Hope in the course of last summer. The material facts, if correctly stated, seem to be these: On July 28, 1863, the *Alabama* entered the bay of Saldanha for the purpose of repainting, and remained there till August 4; on August 5 she sailed for Table Bay, and within sight of the persons on shore, though apparently at a distance of more than three miles, captured the federal bark *Sea Bride*. The captain and the crew of the *Sea Bride* were taken on board the *Alabama* and *put in irons*, and seem afterward to have been landed at Cape Town. After the capture was effected it is asserted that the prize was brought within a mile and a half of the English shore in charge of a prize crew, and it appears that attempts were made to sell the prize to some speculators at Cape Town. What ultimately became of the *Sea Bride* does not appear upon the papers. Now, assuming the facts thus stated to be correct—and there is no intimation on the face of the papers that they are disputed—some important questions arise.

And, first, ought the *Alabama* ever to have been allowed to enter the bay of Saldanha at all? I confess I am very strongly of opinion that she ought not. As soon as the war between the Federal and Confederate States broke out the English government defined the exact terms and conditions on which the ships of war of both nations should be admitted into our ports. In our character as a neutral nation we extend impartially to both such a limited hospitality as shall keep us clear from any participation in their hostile pursuits. To this hospitality so defined the duly commissioned vessels of war of both belligerents are clearly entitled so long as our regulations remain unaltered. It is equally certain, however, that we are at perfect liberty to make precisely what rules upon the subject we think fit. The principles of the rights and duties in this respect of neutral states are laid down with admirable clearness in the case of the *Exchange*, (7 Cranch Rep.,) one of the greatest judgments, perhaps, ever delivered in a court of law. If the *Alabama* is admitted into our ports it is undeniable that while she is there she is entitled, as a properly commissioned vessel of war, to enjoy the immunity of her flag. The legality of her origin cannot be inquired into, so as to authorize the neutral state, or any one else, to exercise jurisdiction over her. Still the question remains, ought the *Alabama* to be admitted into our ports at all? Now, it is a sound and salutary rule of international practice, established by the Americans themselves in 1794, that vessels which have been equipped in violation of the laws of a neutral state shall be excluded from that hospitality which is extended to other belligerent cruisers, on whose origin there is no such taint. Accordingly, the cabinet of Washington com-

pelled all the French privateers which had been illegally fitted out in America against England to leave the ports of the United States, and orders were issued to the custom-house officers to prevent their return. This course of proceeding appears equally consonant to the principles of law and the dictates of policy. The question, then, remains, was the Alabama unlawfully equipped and manned within the jurisdiction of Great Britain? Now, setting aside the vexed question of equipment, I think there can be very little doubt on that of enlistment. The question is one which from its very nature is not and cannot become the subject of judicial determination, because a neutral government cannot exercise jurisdiction over such a vessel. It is a matter on which the executive of the neutral government must, according to the best information it can obtain, form its own judgment, and that judgment is final and conclusive on all parties. Now, I observe that in a dispatch dated March 27, 1863, (Parliamentary Paper, p. 2,) Lord Russell writes: "The British government has done everything in its power to execute the law; but I admitted that the cases of the Alabama and the Orto were a scandal and in some degree a reproach to our law." Now, with the greatest deference to those persons who may be of an opposite opinion, I submit that vessels of which such a statement can be properly made—and that it was properly made no one acquainted with the circumstances of their outfit and manning can honestly doubt—are not entitled to the hospitality of the country whose laws they have eluded and abused. I think that to deny to the Florida and the Alabama access to our ports would be the legitimate and dignified manner of expressing our disapproval of the fraud which has been practiced upon our neutrality. If we abstain from taking such a course, I fear we may justly lie under the imputation of having done less to vindicate our good faith than the American government consented at our instance on former occasions to do.

But, assuming this position not to be well founded, and that the Alabama was rightly admitted into Saldanha Bay, it remains to consider whether the capture of the Sea Bride can be justified as it affects the neutrality of Great Britain. This, I confess, appears to me somewhat more than doubtful. Supposing the Alabama were to anchor at Spithead for a week to repaint; suppose thence she were to sail along the coast and capture a federal vessel four miles off Deal, and afterward were to proceed with her prize to the mouth of the Thames: the circumstances would be precisely similar to those which took place last August at the Cape. Is this permissible? I venture to say clearly not. Assume that the capture was actually effected—of which there seems little doubt—beyond the limits of the neutral jurisdiction, still within the principles of well known English judgment, this act of hostility is far too proximate to be permitted. The law on the subject is laid down with great distinctness by Lord Stowell in the case of the *Twes Gebroeders*, (3 Rob. Rep., p. 165.)

"Direct hostility appears not to be necessary, for whatever has immediate connection with it is forbidden. An act of hostility is not to take its commencement on neutral ground. It is not sufficient to say it is not completed there—you are not to take any measure there that shall lead to immediate violence; you are not to avail yourself of a station on neutral territory, making it as it were a vantage ground of the neutral country, a country which is to carry itself with perfect equality between both belligerents. Many instances have occurred in which such an irregular use of a neutral country has been warmly resented, and some during the present war; the practice which has been tolerated in the northern states of Europe of permitting French privateers to make stations of their ports, and to sail out to capture British vessels, is of that number."

Vide also the *Anna* (5 Rob., p. 385.) It is true that in the case of the *Vrow Anna Catharina* (5 Rob. Rep., p. 18) a distinction is taken between the "making a harbor an habitual station for captures," and the case of a privateer "accidentally lying in the port," which goes out to capture an enemy whom she sees approaching. But as far as I can understand the occurrences at the Cape, they range themselves rather under the former than the latter rule. If this be so, the capture of the Sea Bride comes within the same category as captures made actually within the limits of the neutral jurisdiction, and in such cases it is the duty of the neutral government to effect restitution.

But, again, assuming this not to be so, and the capture is to be regarded as clear from all objection on the score of violation of neutral territory, there still arises another question from the fact that the prize was subsequently brought within the limits of our jurisdiction. Now, this having been done, the consul of the federal government had a clear right, according to the doctrine of the *Santissima Trinidad* and similar cases, to litigate the question of restitution on the ground that the vessel was captured by a cruiser unlawfully equipped within the English dominions. This he was entitled to do, on a claim for restoration brought either at his suit or that of the English government, and upon such a suit the character and origin of the Alabama would have been judicially investigated. It is difficult to understand why this course was not adopted, except that both the English colonial authorities and the American consulate appear, from their reciprocal arguments, to have been imperfectly versed in the legal principles applicable to the occurrence. The American consul seems to have omitted to demand that to which he was justly entitled, while he put forward all sorts of claims which were wholly untenable. On the other hand, the colonial authorities do not appear

either to have received very explicit instructions or to have exercised any great caution or sagacity on the occasion.

It remains to notice the case of the *Tuscaloosa*, which arose just about the same time in the same waters, and which, from what I perceive by your paper of this morning has more recently occurred, is likely to become a matter of some interest. This vessel, it appears from the Parliamentary Paper, was originally the federal bark *Conrad* captured by the *Alabama*; she had some guns put on board her, and was named the *Tuscaloosa*. Whether she was ever legitimately commissioned as a vessel of war does not distinctly appear; and if she was so, the authority and the manner in which the commission was conferred are not stated. However this may be, on the 8th of August, 1863, she entered Simon's Bay, where she remained seven days with her original cargo of skins and wool on board, and it is stated that her cargo was sold to merchants at Cape Town. Under these circumstances the American consul demanded her detention by the English colonial authorities on the ground that she was a prize, and that the English government "having excluded prizes from all the ports of the British empire, the captures necessarily revert to their real owners as soon as they enter a British port." It is hardly necessary to say that as a general proposition this is wholly untenable. The rule is, that questions of prize are cognizable only in the courts of the captor; and the mere fact that a prize is brought into our ports, in breach of these orders, does not give to the neutral any jurisdiction over the prize of a legitimate cruiser, whether the prize has or has not been condemned. The only remedy in such a case is to order its instant departure. But to the general rule that questions of prize are cognizable only by the courts of the captors, there are two important exceptions—one, where the prize has been taken in violation of the neutral territory; the other, where the prize has been taken on the high seas by a cruiser equipped within the neutral territory in breach of its laws. In both these cases the neutral government lawfully assumes authority over the prize in vindication of its violated neutrality. Neither the American consul nor the colonial authorities seems to have adverted to this important distinction between the rule and the exceptions. The matter was further complicated by the pretension of the *Tuscaloosa* to be a commissioned vessel of war. The colonial authorities decided that she was entitled to be so regarded, and declined in any way to interfere with the vessel. It appears from a letter of Lord Russell to Mr. Adams, dated October 29, 1863, (Parliamentary Paper, p. 43,) that the Foreign Office was not altogether satisfied with the view taken of the matter by the authorities at the Cape, and it would seem that fresh instructions were issued, under which, in December last, the vessel was seized on her return to the Cape. The grounds of this seizure and the circumstances attending it are not stated with any precision, and the facts of the case are too little known to admit of any one venturing an opinion on the subject. Those who desire to acquaint themselves with the principles of law involved will do well to study the case of the *Nereyda*, (8 Wheat. Rep.,) which appears, as far as the facts are known, to be remarkably similar to that of the *Tuscaloosa*. The profound and masterly arguments at the bar in that case seem to exhaust every aspect of the question, and are a good deal more instructive than the somewhat timid and inconclusive judgment of the court. The question there was whether a prize which assumed to have been duly condemned and to have received a legitimate belligerent commission could, when brought into a neutral port, be seized by a neutral government and restored to her original owners on the ground that she was originally captured by a vessel unlawfully equipped within the territory of the neutral government. It is not very easy to discover from the judgment of the court whether they held the satisfactory proof of a lawful condemnation would have absolutely defeated the neutral jurisdiction; nor is it clear what view they took of the operation of the alleged commission. I confess I am disposed to think that in such a case the question of condemnation is not the most material, and that, whatever may be the case of a *bona fide* purchaser under the sentence of a prize court, at all events as against the original captors the mere sentence of condemnation would not defeat the right or dispense with the duty of the neutral government to effect restitution in such a case. The question of the commission of the *Tuscaloosa* is a much more serious matter. It is certainly a strong thing to attempt to exercise jurisdiction of any kind, upon any pretext, over a commissioned vessel of war; and in this respect it must be confessed that it is not very easy to reconcile the course taken in the case of the *Nereyda* with the doctrine laid down with so much precision in that of the *Exchange*. It is probable, however, that the legitimacy of the commission of the *Tuscaloosa* is not admitted by the English authorities. In that case the matter will resolve itself simply into a suit for the restitution of a prize brought within our jurisdiction, on the allegation that she was captured by a cruiser unlawfully fitted out and manned within our dominions. Such a suit would be strictly in accordance with well-established precedents, and in its discussion the whole question of the origin and character of the *Alabama* and her outfit will be adjudicated upon.

Before quitting these topics I should wish to say one word on the tone and temper in which it becomes us to enter on these discussions. Some people seem to consider that we do ourselves injustice if, when the Americans swagger, we do not bluster in

return. I confess that it appears to me that dignity and self-respect prescribe an exactly opposite course. The American government may find some excuse for irritation and ill temper in their ill success and disappointment. We have no pretense for regarding these questions in any other spirit than that of a calm and self-possessed impartiality. I have no fear lest we should be timid enough to do more than is right because we are threatened, and I hope we shall not be petty enough to do less than is right because we are abused. The maxim of chivalry, *noblesse oblige*, applies not less to great nations than to exalted persons. England is too powerful to be afraid, and too great to fear to be thought so. What we have to do is to determine, according to the best of our judgment, the precise limits of right, and to tread with an unswerving step the path of justice and of law, alike heedless of menace and disdainful of reproach. What we have most to fear is lest we should ever find ourselves committed to defend that which is not justly defensible.

HISTORICUS.

TEMPLE, February 16.

Mr. Graham to Mr. Adams.

UNITED STATES CONSULATE,
Cape Town, Cape of Good Hope, January 4, 1864.

SIR: The Conrad, *alias* Tuscaloosa, arrived in Simon's Bay, in this colony, on the 27th day of December, 1863, having been on a cruise between this place and Brazil, since she discharged her cargo of wool at Angia Pequina. She reported having seen over one hundred vessels on her cruise, only two of which were American. One of these two outsailed her after a chase of two days; the other, named the Golden Age, she captured, and afterward released upon the master giving a bond to the amount of \$180,000. On the 28th, the next day after the Tuscaloosa arrived here, I received the following letter:

"COLONIAL OFFICE, December 28, 1863.

"SIR: I am directed by the governor to acquaint you that the Tuscaloosa, having again arrived in Simon's Bay, will, under instructions lately received from her Majesty's government, be retained under her Majesty's control and jurisdiction, until properly reclaimed by her original owners.

"I have the honor to be, sir, your most obedient servant,

"RAWSON W. RAWSON,
"Colonial Secretary.

"WALTER GRAHAM, Esq., United States Consul."

To this I briefly replied, that I was content to have the vessel remain in the present custody until I received special instructions from her owners in regard to her; because, though I could institute a proceeding *in rem* without special authority from them, I could not receive actual restitution of the *res* in controversy without such authority. But I added, that if, at any time hereafter, it should be determined to give the vessel up to any party other than the owners, I desired to be apprised of the fact in due season, to commence a proceeding *in rem* in the vice-admiralty court here. I also said, I hoped his excellency would see that the decision of the British imperial government covered as well the goods belonging to the Sea Bride, which were seized at the custom-house here, and that he would be pleased to announce that they also were held subject to the order of the original owners.

I have not yet received any reply; but as the suit I have brought against the colonial government was to establish a principle which the home government has already conceded in the case of the Tuscaloosa, there is now little necessity for prosecuting the suit, especially as the value of the goods claimed is of small account.

I have the honor to be, sir, your most obedient servant,

WALTER GRAHAM, Consul.

Hon. CHARLES FRANCIS ADAMS,
Envoy Extraordinary, &c., &c., &c., London.

P. S.—January 5. Last evening I received the following letter.

W. G.

"COLONIAL OFFICE, January 4, 1864.

"SIR: I am directed by the governor to acknowledge the receipt of your letter of the 29th ultimo, and to state that in compliance with your application, the Tuscaloosa will for the present be retained in charge of officers of her Majesty's government. His excellency is quite prepared to comply with your request respecting the forfeited goods, said to have been part of the cargo of the Sea Bride.

"I have the honor to be, sir, your most obedient servant,

"RAWSON W. RAWSON,
"Colonial Secretary.

"The U. S. CONSUL."

APPENDIX No. IX.

COMMUNICATION FROM R. SEMMES GIVING THE REASON WHY CONFEDERATE CRUISERS BURN THEIR PRIZES, AND THE REMEDY.* ALSO HIS REPORT CONCERNING THE ENGAGEMENT BETWEEN THE KEARSARGE AND ALABAMA.†

[From the London Times of June 16, 1864.]

THE ALABAMA AND HER PRIZES.

CONFEDERATE STATES STEAMER ALABAMA,
On the High Seas, April, 1864.

To the Editor of the Times :

SIR: Do me the favor to publish in the Times the inclosed communication, which I design as a reply to numerous assaults upon me by the English press—not excepting an occasional “rumble” from yourselves—on the subject of my destroying prizes at sea without adjudication by a prize court. The London Evening Star and kindred negro-philist associates have been particularly virulent and abusive. The term “pirate” is a favorite epithet with them; but as abuse is always evidence of the weakness of the cause in which it is employed, and as this little failing may be a sort of vocabulistic necessity with them to enable them to pursue their polite calling, perhaps I ought not to quarrel with it. !

If in the course of my remarks I have found it necessary to review some of the acts of your government, I trust you will give me credit for doing this in a spirit of justice and fair play, and not with a disposition to be querulous or censorious. I have alleged no fact that will not be conceded, and if my reasoning upon the premises be sound, no harm can have been done to any one, since truth is never unjust. If, on the contrary, the reasoning be unsound, you have the probe and scalpel at hand.

I am, respectfully, &c.,

R. SEMMES,
Captain Confederate States Navy.

“THE REASON WHY CONFEDERATE CRUISERS BURN THEIR PRIZES, AND THE REMEDY.

“I had the honor to command the first vessel of war (the steamer Sumter) commissioned by the Confederate States in the present war, and, having successfully run the blockade of New Orleans and got to sea, it early became necessary for me to adopt some mode of disposing of my prizes. A blockade of the entire coast of the Confederate States had already been declared, and the enemy was busy in collecting and arming ships to enforce it; and I presumed that in the course of a few months the blockade would be at least sufficient to keep out sail vessels, and of this class, with rare exceptions, it was probable my prizes would be. It was clear, therefore, that I should be effectually prevented from sending my prizes into the confederate ports. Up to the time of my running the blockade (June 30, 1861) I had not seen her Britannic Majesty's orders in council prohibiting the belligerents from bringing their prizes into British ports; and looking to the unequal operation of such orders, I had strong hopes that none such would be issued. I made my first prizes on the coast of Cuba, and with a view to test the disposition of Spain in this matter, I sent them—seven in number—into the port of Cienfuegos. Their arrival was telegraphed to the captain general at Havana. The captain general was without instructions, the orders of neutrality of the Queen of Spain not yet having been received. The prizes were permitted to remain until these

* See dispatch No. 720 from Mr. Adams to Mr. Seward, June 16, 1864. See vol. 3, p. 257.

† See dispatch No. 726 from Mr. Adams to Mr. Seward, June 23, 1864. See vol. 3, p. 258.

orders should arrive. The orders came, and the prizes were afterward illegally handed over to the enemy, instead of being warned to depart. Spain, as well as France, had followed the lead of Great Britain, and in due time all the smaller commercial nations did the same. To show the objects I had in view in sending in these prizes, I quote below an extract from my letter to the governor of Cienfuegos:

"The cargoes of several of these vessels are claimed, as appears by certificates found among the papers, as Spanish property. This fact cannot, of course, be verified, except by a judicial proceeding in the prize courts of the Confederate States. But while this fact is being determined, what is to be done with the property? I have the right to destroy the vessels, but not the cargoes, in case the latter should prove to be, as claimed, Spanish property; but how can I destroy the former and not the latter? I cannot, before sentence, unlade the cargoes and deliver them to the claimants, for I do not know that the claims will be sustained; and I cannot destroy the cargoes, for I do not know that the claims will not be sustained. Indeed, one of the motives which influenced me in seeking a Spanish port was the fact that these cargoes were claimed by Spanish subjects, whom I am desirous of putting to as little inconvenience as possible in the unlading and reception of their property after sentence, in case it should be restored to them."

"It will thus be seen that I was not only anxious to condemn my prizes, but to put neutrals to as little inconvenience as possible. If my prizes had been received into neutral ports, and permitted to remain there until they could be adjudicated by our prize courts, sitting in our own territory, no possible inconvenience that I can perceive could have resulted to neutral nations, and the rights of every one would have been secured—the right of the captor to the full benefit of his prize, and the right of the neutral claimant to adjudication. What inconvenience to Great Britain, for example, could possibly have grown out of the fact of a captured vessel lying quietly at her dock in the port of Liverpool in charge of a ship-keeper and prize agent until she could be adjudicated; and if she should be condemned, why could she not have been sold as quietly at public auction as if she had been seized and sold under an execution for debt? It was my intention to follow the precedent set in the Cienfuegos case—of sending all my prizes into the most convenient ports for the parties concerned; as where there were English claimants, into English ports; French claimants, into French ports, &c.; but this intention was frustrated, as has been seen, by the orders of the Queen's government. I say the Queen's government, because that government gave the cue which was followed by all the other nations. By these orders I was deprived at the same time of the right of asylum and sale of my prizes and of the power of adjudication. What course was expected of me under these circumstances? Was it expected that I would abandon the right of capture altogether; or that I would be guilty of the child's play of capturing the enemy's ships with one hand and releasing them with the other; that, in short, I would retire from the high seas and leave the enemy to pursue his commerce, his 'innocent and peaceable commerce,' as Mr. Adams plaintively and naively calls it, without molestation? If you did not suppose this—and I will not impute such folly to a people who not only know the value of commerce to a belligerent, but who have always annihilated the commerce of their enemies in their own wars—you must have known that I would destroy the enemy's ships in every case where it was possible. Why, then, do you complain of the course I pursued? Was it just to force that course upon me, and then exclaim against it in pious horror? Is this the kind of 'fair play' upon which Englishmen pride themselves?"

"But your neutrality, you say, compelled you to this course. Let us see how that is. What is neutrality? Impartiality. Impartiality in form or appearance merely, or impartiality in substance? When a nation is called upon in good faith to perform that most solemn act of declaring her impartiality between two belligerents, is a mere jugglery of words all that is necessary, or must she look at the practical consequences of the rule she adopts? To this query there would seem to be but one answer. The rule must not only speak in the language of justice, but it must work out the ends of justice. Otherwise it is a sham and a deceit. Let us test the orders of British neutrality by this canon. On their face nothing could be more fair. Whatever is ordained as to the one belligerent is ordained as to the other. The prizes of both belligerents are prohibited from entering British waters. But when these orders were penned, what facts and what consequences were in the mind of the minister? Did he or did he not know that he was dealing a staggering blow at the Confederate States at the same time that he was playing directly into the hands of the federal States? Let us see. It will be admitted that the two belligerents had the right to use against each other all the modes of warfare recognized by the international code, and that no nation had the right to prohibit to either of them the use of any of those modes. Privateering was one of those modes, and the circumstances of the two parties to the war were such that this mode of offense was peculiarly valuable to the Confederate States. The federal States had a large commerce and a very respectable navy, they having retained possession of all the ships of war of the old service, while the Confederate States had little or no commerce, and were just beginning to improvise a navy. (And here it may not be out of place to

mention a fact highly creditable to the parties concerned: Every ship of war in the command of a southern naval officer at the date of the secession of his State was duly handed over to the federal government before the officer resigned his commission and returned to his State.) A large proportion of the wealth of the federal States consisted in their commerce, and if this could be destroyed an important blow would be struck in the war. The 'volunteer corps' of the sea—as legitimate as the 'volunteer corps' of the land—was the most effective weapon with which to strike this blow, and accordingly, in the first days of the war, several privateers were commissioned, and others were being rapidly fitted out, when the Queen's orders appeared and knocked the whole scheme on the head. As if by magic, the privateers which had already been commissioned disappeared from the seas, and all work was suspended on those in course of preparation, and the little Sumter, afterward assisted by two or three other small vessels, was obliged to undertake the herculean task of destroying a commerce second only to that of Great Britain, and which covered every sea. The reason of the disappearance of these private armed ships is obvious. They are prepared at the cost of individuals, and depend wholly upon their captures for success. If these cannot be made available the enterprise becomes abortive, and the capital invested in it is sunk; and they could not be made available by reason of the Queen's orders referred to, denying them the right of asylum in British ports, the British foreign secretary well knowing that they could not be made available in the confederate ports because of the blockade; the blockade having been proclaimed on the 18th of April, 1861, and the orders in council not having been issued until the 1st of the following June. So far as results were concerned the British government might as well have said to the Confederate States, in the words of the 'declaration' of Paris, 'Privateering is and remains abolished,' although the said States were not bound by the said declaration, the United States, then the federal mouthpiece, having declined to accede thereto before the war.

"There was no occasion for Mr. Seward to endeavor to 'sneak' into this 'declaration' after the war, in the hope that by becoming a party to it Great Britain would illogically hold that the Confederate States, now acknowledged as belligerents, would be bound by the act of their enemy. The British foreign secretary knew his business better than this. With the most commendable sagacity he took care of his logic and of his friend Mr. Seward at the same time, and accomplished the object of the federal government by his orders in council, without permitting its minister to humiliate himself.

"This was one result of the declaration of neutrality—*Anglo* partiality—put forth by Great Britain. But the mischief did not end here. The Confederate States being compelled to restrict their operations upon the high seas to their ships of war, those ships were also seriously embarrassed by this declaration. Their inability to adjudicate their prizes has been already referred to. As a consequence of this inability they could make no beneficial use of them. Not only so, they were compelled in many instances to release them on ransom bond for the benefit of neutrals; that is to say, to give neutral claimants of cargoes an opportunity after the war, when the bonds should be sued upon, to vindicate their claims in a court of justice, which opportunity their own governments had denied to them during the war, by rendering it impossible for them to go before a confederate prize court. The release of these vessels operated strongly, too, in favor of the enemy; for it amounted to a loan to him of so much property, of which he had been rightfully deprived, with which to carry on the war; his bonds, in the mean time, being of no use to the captors, as it was impossible to collect them until after the war. This double mischief, therefore, ensued in these bond cases—the enemy continued to carry on his commerce, and commerce to a belligerent is strength; while the captor's means, *quoad* the war, were not increased by his captures. The reader will now see why as few of these ships as possible were released on bond, the release being confined to those cases in which an apparent *bona fide* neutral claim was presented on the face of properly prepared papers. Nevertheless, to show the good faith with which the captor must have acted towards neutrals in this matter, every ship destroyed by him was so much property destroyed against his own interest; for, the ship being destroyed, no prize money could be realized, whereas the bond would be valuable to him at the end of the war. And although it was to be presumed that every officer would, from a sense of duty, destroy as many of his prizes as possible, yet we see that, at least, he had no private interest to urge him to destroy them when there was a question of neutral rights, his leaning being, in fact, the other way.

"This, then, is the working of those British orders in council which, on the face of them, appear to be entirely unexceptionable. Stripping off the diplomatic disguise of language—which is so thin and transparent that the wonder is that it should have been resorted to at all with the hope of concealment—more unjust, oppressive, and unneutral orders could not have been devised. If the practical effect of these orders is such as I have stated, what excuse can be offered for adopting them? Can it be said that no other course was open to the British government under the laws of nations? If so, that would be a sufficient excuse; for where a government has no alternative it would certainly be unjust to hold it responsible for all the consequential damages of

its acts. It might be said, with truth, in reply to our complaints, 'We were obliged, under the laws of nations regulating and controlling our neutrality, to exclude your prizes from our ports; and if, by reason of your inferior naval force, and the consequent blockade of your ports, the rule operates more harshly upon you than upon the enemy, that is your misfortune, not our fault.' But the fact is there is no such excuse to offer. It was, at least, equally as open to Great Britain to admit as to exclude our prizes, as I will now proceed to show. The practice of nations has been various on this point, and it rests in the discretion of each nation to admit prizes into its ports or to exclude them as it may think fit. This seems to be the general understanding of the law on this question, although there is very respectable authority for the opinion that a nation cannot lawfully exclude the prizes of a belligerent without previous treaty stipulations to that effect.—(*Loccenius de Jure Maritimo*, L. 2, c. 4, s. 7.) As a general rule, belligerent nations have not favored the carrying of their prizes into neutral ports, and the reasons are obvious. It is much more convenient for the prize courts that they should have the actual custody of the prize to be adjudicated. And the bringing in of prizes to the home ports gives the subjects of the captor an opportunity of dealing in prize property, an object of no small importance in a maritime war where many valuable captures are made. It gives the government, too, the advantage of buying in such ships as it may wish to equip for the purposes of war—an advantage of which the federal States have frequently availed themselves during the present war. Hence belligerent nations have generally required their cruisers to bring their prizes into the home ports. Still, in cases where the contrary practice was convenient, nations have freely availed themselves of it without let or hinderance from neutrals, unless there was a treaty in the way. In former wars in which Great Britain has been concerned, Leghorn and Lisbon were frequently made use of for this purpose; the prizes being condemned and sold without ever reaching the home ports at all. But taking the modern practice to be for the neutral to admit or exclude prizes at pleasure, the presumption always is, previous to the issue by the neutral of any order on the subject, in favor of the admission—this having been the more common practice. On this point see *Wheaton's Elements*, (Lawrence,) p. 498; see also 3 *Phillimore's International Law*, p. 467, sec. 363. The treaties between nations on this subject have been as various as the practice. In 1778 a treaty was entered into between France and the United States, whereby no ship of the enemy of either party was allowed to sell her prize, or discharge her cargo, or buy more provisions than immediately indispensable, in the ports of the other.

"In 1800 a similar treaty was entered into by the same parties.

"In 1794 a treaty of exclusion was made between England and the United States.

"In 1806 a treaty was made between the same parties containing similar provisions.

"In 1782 a treaty was entered into between the United States and Holland, then one of the principal maritime powers, whereby the sale of prizes brought by either party into the ports of the other was legalized.

"In 1742 a treaty was made between Spain and Denmark authorizing the reception and sale of prizes reciprocally; and so late as 1829 a treaty was ratified between Holland and the republic of Colombia authorizing the reception of prizes into each other's ports.

"Now, if the treaties between Great Britain and the United States were still in existence, there is no doubt that Great Britain would be obliged under those treaties to apply the rule of exclusion to the Confederate States; but it will be remembered that a war occurred between the two contracting parties in 1812, subsequently to the formation of those treaties, which abrogated them; and the subject has not since been renewed either in the treaty of Ghent, which put an end to that war, or in any subsequent treaty. The ignoring of such a question, after it had once been made the subject of a treaty, places in a very strong light the intention of the parties to remain perfectly free to exercise their discretion for the future. Great Britain, then, has no excuse for the unjust and unneutral course she has pursued. She can neither affirm that she had no alternative under the laws of nations, nor that she was bound by any treaty obligation.

"One more question, which has already been incidentally noticed, remains to be disposed of. If Great Britain had permitted the entry of prizes into her ports, would this have enabled the captors to condemn them so as to give an indefeasible title to the purchaser? Without doubt. Notwithstanding Lord Stowell, in the case of the '*Flad Oyen*,' (1 Rob., pp. 139-142,) declared the practice (he was commenting on the practice of the French courts, in the heat of a French war, and every lawyer knows the rim with which his lordship assailed everything French) to be 'infrequent and irregular,' it is now well settled that a belligerent prize court, sitting in its own country, may adjudicate a prize lying in neutral waters, provided the possession of the captor remains. And this position seems to be as unanswerable in principle as it is well settled in practice. The proceeding in a prize case is *in rem*, and to give the court jurisdiction it is only necessary that it should have possession of the prize. But this need not be actual possession by the officers of the court, as by the marshal and his bailiffs. It is sufficient if the captor, or his duly appointed agent, has possession, because his possession

is that of the government under whose authority the court sits, as effectually as would be that of the marshal; and no principle is better settled than that a neutral government has no right to interfere with the captor's possession of his prize—the case only excepted of the capture having been made within the waters of the neutral territory. So that if the prize be admitted into the neutral port at all—and the argument proceeds upon that hypothesis—the captor's possession remains as firmly established as if he and his prize were in his own country. In support of this jurisdiction of the prize court I quote the following authorities:

"In 111 *Phillimore's International Law*, p. 482, it is said: 'An attentive review of all the cases decided in the courts of England and the North American United States during the last war (1812) leads to the conclusion that the condemnation of a capture by a regular prize court, sitting in the country of the belligerent, of a prize lying at the time of the sentence in a neutral port, is irregular, but clearly valid. It appears to be the inclination of the English prize court during the present war (Russian) to limit to cases of necessity the condemnation of vessels lying in a neutral port. It is scarcely necessary to add, after what has been said as to the former French law on condemnations by judges of the belligerent in neutral ports, (that is, the judge and the prize both being in the neutral port,) that such condemnations of vessels lying in neutral ports are holden valid by the French prize courts.' Again, in the volume already quoted, p. 426, it is said: 'The courts of the North American United States allow that property may be condemned in the courts of the captor while lying in a neutral country, but still they rightly hold that it can only be so adjudicated upon while the possession of the captor remains; for if it be divested, either in fact or by operation of law, that possession is gone which can alone sustain the jurisdiction. And it is to be observed that, *a fortiori*, where the property is already in the custody of a neutral tribunal, and the title is there *sub judice*, no other foreign court can, by any adjudication of its own, rightfully take away, forestall, or defeat the jurisdiction of this neutral tribunal;' and the author quotes 7 *Wheaton's Reports*, 355. It thus appears that, unless the captor divests himself of the possession of the prize, (as by sale, without waiting for condemnation,) or his possession is divested by operation of law, (as by his bringing a prize captured within neutral waters within neutral jurisdiction,) the belligerent prize court, sitting in its own country, has ample power to adjudicate.

"There would seem, then, to be no difficulty in the way of Great Britain's revoking her unjust and unneutral orders in council and returning to a sense of justice. If individuals are bound in conscience to retract their errors when once discovered, how much more are nations bound to do so, the consequences of whose errors are so much more wide-spread? By doing justice to the Confederate States Great Britain will not be doing injustice to the federal States. If she gives an asylum in her ports to the former, she will equally give it to the latter; and if this should work an incidental advantage to the Confederate States, why should this be objected to more than the opposite rule, which has worked them so many disadvantages? And will it be less graceful in Great Britain to perform this act of justice because one of the parties in the *forum* is struggling against odds, while the other has become overbearing, nay, truculent and defiant, from a fancied excess of brute strength? It is never safe for a nation, any more than an individual, to temporize, especially with a bully, and at the cost of injustice to a weaker party. Great Britain innocently fancies that she is 'laying up against a rainy day'—that is to say, that she is conciliating the 'universal Yankee nation' by her present one-sided course, and establishing wise and safe precedents to be followed by that people hereafter when she shall herself become a belligerent. But I warn her that it is all fancy, and that she will reap the reward of her timidity in the usual way—timidity on the part of nations always inviting further insult and outrage. A people who have become so lunatic as to destroy a constitutional government and voluntarily submit their neck to the yoke of a coarse and illiterate tyrant for the sake of butchering, in gratification of their revenge, eight millions of their former fellow-citizens, will hardly permit themselves to be ruled by English precedents, to be calmly quoted to them by some future peace-loving Earl Russell from ponderous blue-books."

[Editorial.—From the Times of June 16, 1864.]

A letter from Captain Semmes on the subject of maritime law cannot fail to command attention. If we are to take the statements of his enemies literally, this officer is the commander of a piratical vessel, and is therefore a pirate himself, liable to be strung up to the yard-arm of the first ship that catches him. The very idea of such a character quietly sitting down, with *Phillimore* and *Wheaton* before him, to justify his own proceedings and claim the sympathy of the English public, is not a little incongruous. It seems to show that, whether a pirate or not in a technical sense, he has more refined feelings than we commonly attribute to persons of that lawless class, and believes himself to be serving in a good cause. For ourselves, we have never regarded Captain

Semmes in any such light, or supposed the term "pirate" to have been applied to him in sober earnest. A pirate is a highwayman of the seas, preying on commerce without a commission from a belligerent state, and this could never be said with truth of Captain Semmes. The charge against him was that he took upon himself to condemn and burn his prizes at sea without bringing them before a proper court for adjudication; but this practice, if it were ever so illegal, is no more piracy than it is forgery. If any journal, "negrophilist" or otherwise, has called it so, it can have been only by a figure of speech. At the same time, the right of a belligerent cruiser to destroy merchantmen on the high seas as the Alabama has done, has certainly been questioned, though somewhat vaguely, and Captain Semmes's apology for this part of his conduct cannot be considered superfluous.

The sum and substance of his argument is, that he burnt the ships because he had no other means of annoying the federals, and this is the best account that he could give of the matter. The truth is, that the text-books of international law are almost silent upon the subject. They assume that it will be the interest of the captor to carry his prizes into a port of his own country, so as to dispose of them and realize their value. They hardly contemplate the case in which, all those ports being strictly blockaded, he must either forgo the power of injuring his enemy's carrying trade, or take the law into his own hands. Not that even Captain Semmes would venture to claim for himself the same authority as a prize court. He does not pretend that any decision of his could divest the property in any ship or cargo, or confer a good title on a purchaser. He merely determines, at his own peril, after an inspection of the ship's papers, that she belongs to such and such parties, whether neutrals or belligerents, and acts accordingly. If he makes a mistake, his government is responsible for it; and if neutral goods should be destroyed in an enemy's vessel, the neutral merchant is entitled to compensation. Captain Semmes complains that he was compelled in many instances to release prizes on ransom bond for the benefit of neutrals interested in the cargo, thereby leaving the enemy free to employ them for commercial purposes during the rest of the war. This consideration, he tells us, was the reason why "as few of these ships as possible were released on bond." On the other hand, he takes credit to himself and his officers for every ship set on fire, inasmuch as they sacrificed their own chances of prize money to the good of the Confederate States.

We need not follow Captain Semmes further into these questions as to the disposal of prizes, because the notions which he combats really involve a confusion of thought. The validity of captures can only be decided conclusively by a prize court, and it is erroneously inferred from this that an enemy's property cannot be destroyed till it has been found to be such by judicial inquiry. The fallacy, thus stated, is obvious; it consists in not distinguishing between the essential fact—viz: the ownership of the vessel—and the mode of procedure by which that fact must be established so as to bar adverse claims. It is a great pity that Captain Semmes was not content with exposing this error, and has thought it necessary to retort upon the government of this country. His grievance is that the orders in council, dated June 1, 1861, were issued with the full knowledge that they would operate unfairly towards the confederates. He denounces them on this ground as "unjust and unneutral," and urges us in the strongest language to recall them. Before we advert to his elaborate disquisition on the usage of neutral nations with respect to the admission or exclusion of prizes, we must take exception to the principle on which the whole of it is based. "What is neutrality?" asks Captain Semmes. "Impartiality," not in form only, but in substance—that is, not only actual impartiality, but such impartiality as will stand the test of "practical consequences." There cannot be a greater misconception of neutrality than this. To be neutral is to remain at peace while other nations are at war, and to give no assistance to either. It is essentially a negative attitude, and nothing would be more likely to lead to a practical violation of it than such attempts to dress the balance as Captain Semmes requires from us. His theory is that we should deliberately calculate the bearing of any regulation about the use of our own territory that we may see fit to make upon the interests of the two belligerents. If the one happens to be weaker, we must take care that we do not add to the inequality of force, and so adjust our conduct that the issue of the contest may be the same as if Great Britain were not in existence. Not to dwell on the hopeless impossibility of steering such a course, we utterly deny that it would be impartial, or that, if impartial, it would be neutral. To refrain from closing our own ports, because the confederates have no access to their own, would be the very height of partiality. To allow both parties to fit out naval expeditions in them, though it might be impartial, would be a *reductio ad absurdum* of neutrality. The safest rule is to think much less of the belligerents than of ourselves, and to decline all responsibility for the possible effects of a righteous and disinterested policy on the fortunes of the war. Captain Semmes thinks he has proved his point when he calls the orders in council "a staggering blow" at "the Confederate States," and a "playing into the hands of the federal States." If such was their intention—which he does not even assert—*adit questio*. If such was the incidental result of them, being, as they were, in strict accordance with the spirit of neutrality, what does it prove?

The basis, then, of Captain Semmes's reasoning being radically unsound, the superstructure can hardly be stronger. It is in vain that he accumulates authorities to show that if we had not expressly excluded the prizes of both belligerents, the presumption would have been in favor of their admission. Very likely it might, though it is a point upon which the text writers speak with hesitation; but what is beyond all question is, that we had a perfect right so to exclude them, and that we exercised it. Of course, it would have been very convenient to the Confederate States to have prize courts of their own, sitting at Charleston or Savannah upon prizes constructively in their custody, but in fact lying safely in the Mersey or the Thames. No doubt it was extremely vexatious to see the prime inducement to privateering cut away by the order in council, for no private adventurer could afford to adopt the tactics of the *Alabama* and her consorts. "As if by magic, the privateers which had already been commissioned disappeared from the seas," and, "so far as results were concerned," "the declaration of Paris was put in force against the confederates." The inference drawn by Captain Semmes is, that being free to choose one of two alternatives, we should have chosen that which would have been least hard upon him. This reminds us of the "sympathy" which the northerners used to demand that we should infuse into our neutrality. Had we yielded to such appeals on either side, we should by this time be playing the part of the Homeric Zens, now giving the Trojans a lift, now inclining the scales in favor of the Greeks. Again we must protest against so absurd a view of our true position as neutrals. We do not care to discuss with Captain Semmes the question whether we were bound by any treaty obligations to do as we did; it is enough for us that we were not prohibited by any such obligations, and acted in perfect good faith. Every thing that has since happened confirms us in the belief that it was far better to refuse than to concede the privilege of asylum to both of the belligerents. Other nations thought the same, and the fact of their following our example, which Captain Semmes converts into a fresh topic of accusation against us, ought to have opened his eyes to the extravagance of his last paragraph. It would have been more to the purpose if, instead of imputing unworthy motives to this country, he had taken the opportunity of explaining the circumstances under which the *Alabama* and other confederate cruisers have been equipped in fraud of that neutrality which he invokes. Justice is one thing, but parties who claim something more than justice, because they are "struggling against odds," must at least come into court with clean hands.

[From the London Times of June 23, 1864.]

THE ALABAMA AND THE KEARSARGE.

To the Editor of the Times.

SIR: I send herewith a copy of the official report of Captain Semmes of his late engagement with the United States ship *Kearsarge*, which you may, perhaps, think worthy a place in your columns.

I avail myself of the occasion to note one or two inaccuracies in the letter of your correspondent, dated at Southampton on Monday, and published in the *Times* of Tuesday. The crew of the *Alabama* is there stated at 150 men; she had, in fact, but 120, all told.

Again, as to her armament; that of the *Kearsarge* may be correctly given by your correspondent. I do not know what it was. The *Alabama* had one 7-inch Blakely rifled gun, one 8-inch smooth-bore pivot gun, and six 32-pounders, smooth-bore, in broadside.

I am, sir, very respectfully, your obedient servant,

J. M. MASON.

24 UPPER SEYMOUR STREET, June 22.

"SOUTHAMPTON, June 21, 1864.

"SIR: I have the honor to inform you that, in accordance with my intention, as previously announced to you, I steamed out of the harbor of Cherbourg between 9 and 10 o'clock on the morning of the 19th of June for the purpose of engaging the enemy's steamer *Kearsarge*, which had been lying off and on the port for several days previously. After clearing the harbor we descried the enemy, with his head off shore, at a distance of about seven miles. We were three-quarters of an hour in coming up with him. I had previously pivoted my guns to starboard, and made all my preparations for engaging the enemy on that side. When within about a mile and a quarter of the enemy he suddenly wheeled, and bringing his head in-shore, presented his starboard battery to

me. By this time we were distant about one mile from each other, when I opened on him with solid shot, to which he replied in a few minutes, and the engagement became active on both sides.

"The enemy now pressed his ship under a full head of steam, and to prevent our passing each other too speedily, and to keep our respective broadsides bearing, it became necessary to fight in a circle, the two ships steaming around a common center, and preserving a distance from each other of from a quarter to half a mile. When we got within good shell range we opened upon him with shell. Some ten or fifteen minutes after the commencement of the action our spanker gaff was shot away and our ensign came down by the run. This was immediately replaced by another at the mizenmast-head. The firing now became very hot, and the enemy's shot and shell soon began to tell upon our hull, knocking down, killing, and disabling a number of men in different parts of the ship.

"Perceiving that our shell, though apparently exploding against the enemy's sides were doing him but little damage, I returned to solid-shot firing, and from this time onward attended [alternated?] with shot and shell.

"After the lapse of about one hour and ten minutes our ship was ascertained to be in a sinking condition, the enemy's shell having exploded in our side and between decks, opening large apertures, through which the water rushed with great rapidity.

"For some few minutes I had hopes of being able to reach the French coast, for which purpose I gave the ship all steam, and set such of the fore and aft sails as were available. The ship filled so rapidly, however, that before we had made much progress the fires were extinguished in the furnaces, and we were evidently on the point of sinking. I now hauled down my colors, to prevent the further destruction of life, and dispatched a boat to inform the enemy of our condition.

"Although we were now but 400 yards from each other, the enemy fired upon me five times after my colors had been struck. It is charitable to suppose that a ship of war of a Christian nation could not have done this intentionally.

"We now turned all our exertions towards saving the wounded and such of the boys of the ship who were unable to swim. These were dispatched in my quarter-boats, the only boats remaining to me, the waist-boats having been torn to pieces.

"Some twenty minutes after my furnace fires had been extinguished, and the ship being on the point of settling, every man, in obedience to a previous order which had been given the crew, jumped overboard and endeavored to save himself.

"There was no appearance of any boat coming to me from the enemy after my ship went down. Fortunately, however, the steam yacht *Deerhound*, owned by a gentleman of Lancashire, England, Mr. John Lancaster, who was himself on board, steamed up in the midst of my drowning men and rescued a number of both officers and men from the water. I was fortunate enough myself thus to escape to the shelter of the neutral flag, together with about forty others, all told.

"About this time the *Kearsarge* sent one, and then, tardily, another boat.

"Accompanying you will find lists of the killed and wounded, and of those who were picked up by the *Deerhound*; the remainder, there is reason to hope, were picked up by the enemy and by a couple of French pilot-boats, which were also fortunately near the scene of action.

"At the end of the engagement it was discovered by those of our officers who went alongside the enemy's ship with the wounded, that her midship section on both sides was thoroughly iron-coated; this having been done with chain constructed for the purpose, placed perpendicularly from the rail to the water's edge, the whole covered over by a thin outer planking, which gave no indication of the armor beneath.

"This planking had been ripped off in every direction by our shot and shell, the chain broken and indented in many places, and forced partly into the ship's side. She was most effectually guarded, however, in this section from penetration. The enemy was much damaged in other parts, but to what extent it is now impossible to tell; it is believed he was badly crippled.

"My officers and men behaved steadily and gallantly, and though they have lost their ship, they have not lost honor.

"Where all behaved so well it would be invidious to particularize, but I cannot deny myself the pleasure of saying that Mr. Kell, my first lieutenant, deserves great credit for the fine condition in which the ship went into action with regard to her battery, magazine, and shell-rooms, and that he rendered me great assistance by his coolness and judgment as the fight proceeded.

"The enemy was heavier than myself, both in ship, battery, and crew; but I did not know until the action was over that she was also iron-clad.

"Our total loss in killed and wounded is 30; to wit, 9 killed, 21 wounded.

"I have the honor to be, very respectfully, your obedient servant,

"R. SEMMES, *Captain.*"

APPENDIX No. X.

CORRESPONDENCE RESPECTING THE TUSCALOOSA.*

EXTRACTS FROM THE BRITISH BLUE BOOK "NORTH AMERICA," NO. 6,
1864.

*Return to the third paragraph of an address of the House of Lords, dated
February 16, 1864, for correspondence respecting the Tuscaloosa.*

No. 1.

The Secretary to the Admiralty to Mr. Hammond.

ADMIRALTY, September 26, 1863.

SIR: I am commanded by my lords commissioners of the admiralty to send you herewith, for the information of Earl Russell, a copy of a letter from Rear-Admiral Sir Baldwin Walker, dated the 19th August, with copies of its inclosures, relative to the proceedings of vessels of war of the so-styled Confederate States of North America at the Cape of Good Hope.

I am, &c.,

W. G. ROMAINE.

[Inclosure 1 in No. 1.]

Rear-Admiral Sir B. Walker to the Secretary to the Admiralty.

NARCISSUS, SIMON'S BAY, August 19, 1863.

SIR: I beg you will be pleased to acquaint my lords commissioners of the admiralty with the following particulars relative to the proceedings of the Confederate States ships of war Alabama, her reported tender Tuscaloosa, and the Georgia, which have recently arrived at the Cape of Good Hope.

2. On the 28th of July an English schooner arrived in Table Bay, and reported that on the previous day she had been boarded by the confederate steamer Alabama fifteen miles northwest of Green Point. After some inquiries the Alabama left her, steering southeast.

3. Upon the receipt of this intelligence I ordered Captain Forsyth, of the Valorous, to hold himself in readiness to proceed to any of the ports in this colony where the Alabama might anchor, in order to preserve the rules of strict neutrality.

4. By a letter addressed to the governor of this colony by Captain Semmes, copy of which was telegraphed to me on the 4th instant, it appears that the Alabama had proceeded to Saldanha Bay for a few days, anchoring there on the 29th of July.

5. On the 5th instant I received a private telegram to the effect that the Alabama was off Table Bay, when I directed the Valorous immediately to proceed to that anchorage; and shortly afterwards a telegram reached me from the governor stating "that the Alabama had captured a vessel—American—which was in sight, and steering for Table Bay." The Valorous reached that bay at 10.15 p. m., where the Alabama had anchored at 3 o'clock in the afternoon of the same day.

6. Captain Forsyth having informed me that the tender to the Alabama had been ordered by Captain Semmes to Simon's Bay for provisions, and having learned that this vessel had been captured off the coast of Brazil, and not been condemned in any prize court, I had doubts as to the legality of considering her in the light of a tender, being under the impression that it was a ruse to disguise the real character of the vessel. I

* Transmitted with dispatch No. 626, from Mr. Adams to Mr. Seward, March 18, 1864, (see vol. 3, p. 249,) and forms a continuation of the subject of Mr. Graham's letter to Mr. Adams of August 17, 1863. (See vol. 3, p. 166.)

therefore wrote to the governor to obtain the opinion of the attorney general of the colony upon this subject, which correspondence is inclosed.

7. On the 8th of August the tender *Tuscaloosa*, a sailing bark, arrived in Simon's Bay, and the boarding officer having reported to me that her original cargo of wool was still on board, I felt that there were grounds for doubting her real character, and again called the governor's attention to this circumstance. My letter and his reply are annexed. And I would here beg to submit to their lordships' notice that this power of a captain of a ship of war to constitute every prize he may take a tender, appears to me to be likely to lead to abuse and evasion of the laws of strict neutrality by being used as a means for bringing prizes into neutral ports for disposal of their cargoes, and secret arrangements—which arrangements, it must be seen, could afterwards be easily carried out at isolated places.

8. The *Alabama*, after laying three days in Table Bay, came to this anchorage to calk and refit. She arrived here on the 9th, and sailed again on the 15th instant. Captain Semmes was guarded in his conduct, and expressed himself as most anxious not to violate the neutrality of these waters.

9. I should observe that, from the inclosed copy of a letter from Captain Forsyth to the governor, it would appear that the vessel *Sea Bride*, taken by the *Alabama* off Table Bay, was beyond the jurisdiction of neutral territory.

10. During his passage to this port Captain Semmes chased another American vessel, the *Martha Wentzel*, standing in for Table Bay. On my pointing out to him that he had done so in neutral waters, he assured me that it was quite unintentional, and, being at a distance from the land, he did not observe that he had got within three miles of an imaginary line drawn from the Cape of Good Hope to Cape Hanglip, but on discovering it he did not detain the vessel. This explanation I considered sufficient.

11. The tender *Tuscaloosa*, having been detained by a strong southeaster, got under way for the purpose of going to sea on the 14th instant, but anchored again a little distance from the Roman Rock light-house in consequence of a thick fog prevailing.

12. The *Alabama* did not take in any coal either here or at Table Bay, but after being calked she proceeded to sea on the 15th instant, followed by the *Tuscaloosa*. Their destinations are unknown.

13. On the 16th instant the Confederate States steamer *Georgia*, Commander Maury, anchored in this bay. She requires coal, provisions, and calking. This vessel did not meet the *Alabama* outside.

14. The *Florida*, another Confederate States steamer, is reported to be off this coast, probably cruising to intercept the homeward-bound American ships from China; indeed, it is with that object these ships are on this part of the station.

15. I have learned, since the departure of the *Alabama* and her so-called tender, that overtures were made by some parties in Cape Town to purchase the cargo of wool, but, being unsatisfactory, they were not accepted. It is reported to be Captain Semmes's intention to destroy the *Tuscaloosa* at sea.

16. The *Alabama* is a steamer of about nine hundred tons, with eight guns and one hundred and fifty men. The *Georgia* is an iron steamer of about seven hundred tons, with five guns and one hundred and ten men. The *Tuscaloosa* is a sailing bark of five hundred tons, having two small guns and ten men.

I have, &c.,

B. W. WALKER.

[Inclosure 2 in No. 1.]

Captain Semmes, Confederate States navy, to Governor Sir P. Wodehouse.

CONFEDERATE STATES STEAMER *ALABAMA*,
Saldanha Bay, August 1, 1863.

SIR: An opportunity is offered me by the coasting schooner *Atlas* to communicate with the cape, of which I promptly avail myself.

I have the honor to inform your excellency that I arrived in this bay on Wednesday morning last for the purpose of effecting some necessary repairs. As soon as these repairs can be completed I will proceed to sea, and in the mean time your excellency may rest assured that I will pay the strictest attention to the neutrality of your government.

I have, &c.,

R. SEMMES.

[Inclosure 3 in No. 1.]

Captain Forsyth to Rear-Admiral Sir B. Walker.

VALOROUS, TABLE BAY, August 6, 1863.

SIR: I have the honor to report my arrival here at 10.15 p. m. last evening, and found the confederate steamer Alabama had anchored at 3 p. m. previously.

This morning I put myself in communication with the commander of that vessel, and he informs me he intends leaving this anchorage at daylight to-morrow, or as soon as he has provisioned, and he proceeds to Simon's Bay for repairs; he also informed me he had a tender which he left cruising outside, and had ordered her to Simon's Bay, there to procure provisions.

On my visiting his excellency the governor he requested I would remain here a few days, provided you had no objection, in case of the arrival of the confederate vessel Florida, which is expected.

I have, &c.,

CHARLES C. FORSYTH.

[Inclosure 4 in No. 1.]

Rear-Admiral Sir B. Walker to Governor Sir P. Wodehouse.

NARCISSUS, SIMON'S BAY, August 7, 1863.

SIR: Captain Forsyth having informed me that the Alabama has a tender outside captured by Captain Semmes on the coast of America, and commissioned by one of the Alabama's lieutenants, and as this vessel has been ordered into Simon's Bay for provisions, may I request your excellency will be good enough to obtain the opinion of the law officers whether this vessel ought still to be looked upon in the light of a prize, she never having been condemned in a prize court; the instructions, copy of which I inclose, strictly forbidding prizes captured by either of the contending parties in North America being admitted into our ports.

I have, &c.,

B. W. WALKER.

[Inclosure 5 in No. 1.]

[Extract from Wheaton's Elements of International Law, vol. II, p. 88.]

The title to property lawfully taken in war may, upon general principles, be considered as immediately divested from the original owner and transferred to the captor. This general principle is modified by the positive law of nations in its application both to personal and real property. As to personal property or movables, the title is, in general, considered as lost to the former proprietor as soon as the enemy has acquired a firm possession, which, as a general rule, is considered as taking place after the lapse of twenty-four hours. The established usage of maritime nations has excepted from the operation of this rule the case of ships and goods captured at sea, the original title to which is not generally considered as completely divested until carried *infra præsidia*, and regularly condemned in a competent court of prize.

[Inclosure 6 in No. 1.]

Governor Sir P. Wodehouse to Rear-Admiral Sir B. Walker.

GOVERNMENT HOUSE, CAPE TOWN, August 8, 1863.

SIR: I have the honor to acknowledge the receipt of your excellency's letter of yesterday's date, and to inclose the copy of an opinion given by the acting attorney general, to the effect that the vessel to which you refer ought to be regarded as a tender and not as a prize.

I shall take care to submit this question to her Majesty's government by the next mail, but in the mean time I conclude that your excellency will be prepared to act on the opinion of the attorney general in respect to any vessels which may enter these ports in the character of prizes converted into ships of war by the officers of the navy of the Confederate States.

I have, &c.,

P. E. WODEHOUSE.

[Inclosure 7 in No. 1.]

[Extract from Wheaton's Elements of International Law.]

What constitutes a setting forth as a vessel of war has been determined by the British courts of prize, in cases arising under the clause in the act of Parliament, which may serve for the interpretation of our own law, as the provisions are the same in both. Thus it has been settled that where a ship was originally armed for the slave trade, and after capture an additional number of men were put on board, but there was no commission of war and no additional arming, it was not a setting forth as a vessel of war under the act. But a commission of war is decisive if there be guns on board, and where the vessel after the capture has been fitted out as a privateer, it is conclusive against her, although when recaptured she is navigating as a mere merchant ship; for where the former character of a captured vessel had been obliterated by her conversion into a ship of war, the legislature meant to look no further, but considered the title of the former owner forever extinguished. Where it appeared that the vessel had been engaged in a military service of the enemy, under the direction of his minister of the marine, it was held as a sufficient proof of a setting forth as a vessel of war; so where the vessel is armed, and is employed in the public military service of the enemy by those who have competent authority so to employ it, although it be not regularly commissioned. But the mere employment in the enemy's military service is not sufficient; but if there be a fair semblance of authority in the person directing the vessel to be so employed, and nothing upon the face of the proceedings to invalidate it, the court will presume that he is duly authorized; and the commander of a single ship may be presumed to be vested with this authority as commander of a squadron.

[Inclosure 8 in No. 1.]

Rear-Admiral Sir B. Walker to Governor Sir P. Wodehouse.

NARCISSUS, SIMON'S BAY, August 8, 1863.

SIR: I have the honor to acknowledge the receipt of your excellency's letter of this day's date, covering the written opinion of the acting attorney general of this colony as to the legality of the so-called tender to the Confederate States armed ship Alabama, and for which I beg to express my thanks.

The vessel in question, now called the Tuscaloosa, arrived here this evening, and the boarding officer from my flag-ship obtained the following information:

That she is a bark of five hundred tons, with two small rifled 12-pounder guns and ten men, and was captured by the Alabama on the 21st June last off the coast of Brazil; cargo of wool still on board.

The admission of this vessel into port will, I fear, open the door for numbers of vessels captured under similar circumstances being denominated tenders, with a view to avoid the prohibition contained in the Queen's instructions; and I would observe that the vessel Sea Bride, captured by the Alabama off Table Bay a few days since, or all other prizes, might be in like manner styled tenders, making the prohibition entirely null and void.

I apprehend that to bring a captured vessel under the denomination of a vessel of war, she must be fitted for warlike purposes, and not merely have a few men and two small guns put on board her (in fact nothing but a prize crew) in order to disguise her real character as a prize.

Now this vessel has her original cargo of wool still on board, which cannot be required for warlike purposes, and her armament and the number of her crew are quite insufficient for any services other than those of slight defense.

Viewing all the circumstances of the case, they afford room for the supposition that the vessel is styled a tender with the object of avoiding the prohibition against her entrance as a prize into our ports, where, if the captors wished, arrangements could be made for the disposal of her valuable cargo, the transshipment of which, your excellency will not fail to see, might be readily effected on any part of the coast beyond the limits of this colony.

My sole object in calling your excellency's attention to the case is to avoid any breach of strict neutrality.

I have, &c.,

B. W. WALKER.

[Inclosure 9 in No. 1.]

*Governor Sir P. Wodehouse to Rear-Admiral Sir B. Walker.*GOVERNMENT HOUSE, CAPE TOWN *August 10, 1863.*

SIR: I have the honor to acknowledge the receipt of your excellency's letter of the 8th instant, on which I have consulted the acting attorney general.

The information given respecting the actual condition of the Tuscaloosa is somewhat defective, but referring to the extract from Wheaton transmitted in my last letter, the attorney general is of opinion that if the vessel received the two guns from the Alabama or other confederate vessel of war, or if the person in command of her has a commission of war, or if she be commanded by an officer of the confederate navy, in any of these cases there will be a sufficient setting forth as a vessel of war to justify her being held to be a ship of war; if all of these points be decided in the negative, she must be held to be only a prize and ordered to leave forthwith.

I have, &c.,

P. E. WODEHOUSE.

[Inclosure 10 in No. 1.]

*Rear-Admiral Sir B. Walker to Governor Sir P. Wodehouse.*NARCISSUS, SIMON'S BAY, *August 11, 1863.*

SIR: I have the honor to acknowledge the receipt of your excellency's letter, dated yesterday, respecting the confederate bark Tuscaloosa, now in this bay.

As there are two guns on board, and an officer of the Alabama in charge of her, the vessel appears to come within the meaning of the cases cited in your above-mentioned communication.

I have, &c.,

B. W. WALKER.

[Inclosure 11 in No. 1.]

*Captain Forsyth to Governor Sir P. Wodehouse.*VALOROUS, TABLE BAY, *August 6, 1863.*

SIR: In compliance with the request conveyed to me by your excellency, I have the honor to report that I have obtained from Captain Semmes a statement of the positions of the Confederate States steamer Alabama and the American bark Sea Bride when the latter was captured yesterday afternoon.

Captain Semmes asserts that at the time of his capturing the Sea Bride Green Point light-house bore from the Alabama southeast about six or six and a half miles.

This statement is borne out by the evidence of Captain Wilson, port captain of Table Bay, who has assured me that at the time of the Sea Bride being captured he was off Green Point in the port boat, and that only the top of the Alabama's hull was visible.

I am of opinion that if Captain Wilson could only see that portion of the hull of the Alabama, she must have been about the distance from the shore which is stated by Captain Semmes, and I have therefore come to the conclusion that the Sea Bride was beyond the limits assigned when she was captured by the Alabama.

I have, &c.,

CHARLES C. FORSYTH.

No. 2.

*Sir F. Rogers to Mr. Hammond.*DOWNING STREET, *September 29, 1863.*

SIR: I am directed by the Duke of Newcastle to transmit to you, for the consideration of Earl Russell, the inclosed copy of a dispatch from the governor of the Cape of Good Hope, reporting the arrival at the cape of the confederate steamer Alabama, and requesting instructions on many questions that have arisen from the state of affairs consequent on the presence of this vessel in the colony.

I am, &c.,

F. ROGERS.

[Inclosure 1 in No. 2.]

Governor Sir P. E. Wodehouse to the Duke of Newcastle.

[Extract.]

Government House, Cape Town, August 19, 1863.

I beg to take this opportunity of making your grace acquainted with what has occurred here in connection with the visit of the Confederate States steamer *Alabama*.

On Tuesday, the 4th instant, I received a letter from the commander of that vessel, dated the 1st August, at Saldanha Bay, announcing his having entered that bay with a view to effecting certain repairs, and stating that he would put to sea as soon as they were completed, and would strictly respect our neutrality.

When this intelligence was received, the United States consul called on me to seize her, or at any rate to send her away instantly; but as the vessel which brought the news reported that the *Alabama* was coming immediately to Table Bay, I replied that I could not seize her, but would take care to enforce the observance of the neutral regulations.

On the next day, about noon, it was reported from the signal station that the *Alabama* was steering for Table Bay from the north, and that a federal bark was coming in from the westward; and soon after, that the latter had been captured and put about. A little after 2 p. m. the United States consul called to state that he had seen the capture effected within British waters; when I told him he must make his statement in writing, and an investigation should be made. I also, by telegram, immediately requested the naval commander-in-chief to send a ship of war from Simon's Bay. The *Alabama*, leaving her prize outside, anchored in the bay at 3.30 p. m., when Captain Semmes wrote to me that he wanted supplies and repairs, as well as permission to land thirty-three prisoners. After communicating with the United States consul, I authorized the latter, and called upon him to state the nature and extent of his wants, that I might be enabled to judge of the time he ought to remain in the port. The same afternoon he promised to send the next morning a list of the stores needed, and announced his intention of proceeding with all dispatch to Simon's Bay to effect his repairs there. The next morning (August 6) the paymaster called on me with the merchant who was to furnish the supplies, and I granted him leave to stay till noon of the 7th.

On the night of the 5th her Majesty's ship *Valorous* had come round from Simon's Bay. During the night of the 6th the weather became unfavorable; a vessel was wrecked in the bay, and a heavy sea prevented the *Alabama* from receiving her supplies by the time arranged. On the morning of the 8th, Captain Forsyth, of the *Valorous*, and the port captain, by my desire, pressed on Captain Semmes the necessity for his leaving the port without any unnecessary delay; when he pleaded the continued heavy sea and the absence of his cooking apparatus, which had been sent on shore for repairs, and had not been returned by the tradesman at the time appointed, and intimated his own anxiety to get away. Between 6 and 7 a. m., on Sunday, the 9th, he sailed, and on his way round to Simon's Bay captured another vessel, but on finding that she was in neutral waters, immediately released her.

In the mean time, the United States consul had, on the 5th August, addressed to me a written statement that the federal bark *Sea Bride* had been taken "about four miles from the nearest land," and "already in British waters," on which I promised immediate inquiry. The next day the consul repeated his protest, supporting it by an affidavit of the master of the prize, which he held to show that she had been taken about two miles and a half from the land; and the agent for the United States underwriters, on the same day, made a similar protest. On the 7th the consul represented that the prize had, on the previous day, been brought within one mile and a half of the light-house, which he considered as much a violation of the neutrality as if she had been there captured, and asked me to have the prize crew taken out and replaced by one from the *Valorous*, which I declined.

I had, during this period, been seeking for authentic information as to the real circumstances of the capture, more particularly with reference to the actual distance from the shore, and obtained through the acting attorney general statements from the keeper of the Green Point light-house, (this was supported by the collector of customs,) from the signalman at the station on the Lion's Rump, and from an experienced boatman who was passing between the shore and the vessels at the time. Captain Forsyth, of the *Valorous*, also made inquiries of the captain of the *Alabama* and of the port captain, and made known the result to me. And upon all these statements I came to the conclusion that the vessels were not less than four miles distant from land; and on the 8th I communicated to the United States consul that the capture could not, in my opinion, be held to be illegal by reason of the place at which it was effected.

In his reply of the 10th the consul endeavored to show how indefensible my decision must be, if, in these days of improved artillery, I rested it on the fact of the vessels having been only three miles from land. This passage is, I think, of considerable importance, as involving an indirect admission that they were not within three miles at the time of capture. And I hope your grace will concur in my view that it was not my duty to go beyond what I found to be the distance clearly established by past decisions under international law.

An important question has arisen in connection with the Alabama, on which it is very desirable that I should, as soon as practicable, be made acquainted with the views of her Majesty's government. Captain Semmes had mentioned after his arrival in port, that he had left outside one of his prizes previously taken, the Tuscaloosa, which he had equipped and fitted as a tender, and had ordered to meet him in Simon's Bay, as she also stood in need of supplies. When this became known to the naval commander-in-chief, he requested me to furnish him with a legal opinion; and whether this vessel could be held to be a ship of war before she had been formally condemned in a prize court; or whether she must not be held to be still a prize, and as such prohibited from entering our ports. The acting attorney general, founding his opinion on Earl Russell's dispatch to your grace of the 31st January, 1862, and on Wheaton's "International Law," stated in substance that it was open to Captain Semmes to convert this vessel into a ship of war, and that she ought to be admitted into our ports on that footing.

On the 8th August the vessel entered Simon's Bay, and the admiral wrote that she had two small rifled guns with a crew of ten men, and that her cargo of wool was still on board. He was still doubtful of the propriety of admitting her.

On the 10th August, after further consultation with the acting attorney general, I informed Sir Baldwin Walker that, if the guns had been put on board by the Alabama, or if she had a commission of war, or if she were commanded by an officer of the confederate navy, there must be held to be a sufficient setting forth as a vessel of war to justify her admission into port in that character.

The admiral replied in the affirmative on the first and last points, and she was admitted.

The Tuscaloosa sailed from Simon's Bay on the morning of the 14th instant, but was becalmed in the vicinity until the following day, when she sailed about noon. The Alabama left before noon on the 15th instant. Neither of these vessels was allowed to remain in port longer than was really necessary for the completion of their repairs.

On the 16th, at noon, the Georgia, another confederate war steamer, arrived at Simon's Bay in need of repairs, and is still there.

Before closing this dispatch I wish particularly to request instructions on a point touched on in the letter from the United States consul of the 17th instant, viz: the steps which should be taken here in the event of the cargo of any vessel captured by one of the belligerents being taken out of the prize at sea, and brought into one of our ports in a British or other neutral vessel.

Both belligerents are strictly interdicted from bringing their prizes into British ports by Earl Russell's letter to the lords of the admiralty of the 1st June, 1861, and I conceive that a colonial government would be justified in enforcing compliance with that order by any means at its command, and by the exercise of force if it should be required.

But that letter refers only to prizes, that is, I conceive, to the ships themselves, and makes no mention of the cargoes they may contain. Practically the prohibition has been taken to extend to the cargoes; and I gathered from a conversation with Captain Semmes on the subject of our neutrality regulations, that he considered himself debarred from disposing of them, and was thus driven to the destruction of all that he took. But I confess that I am unable to discover by what legal means I could prevent the introduction into our ports of captured property purchased at sea, and tendered for entry at the custom-house in a usual form from a neutral ship. I have consulted the acting attorney general on the subject, and he is not prepared to state that the customs authorities would be justified in making a seizure under such circumstances; and, therefore, as there is great probability of clandestine attempts being made to introduce cargoes of this description, I shall be glad to be favored with the earliest practicable intimation of the views of her Majesty's government on the subject.

[Inclosure 2 in No. 2.—Captain Semmes, Confederate States navy, to Sir P. Wodehouse, August 1, 1863. See Inclosure 2 in No. 1.]

[Inclosure 3 in No. 2.]

Captain Semmes, Confederate States navy, to Sir P. Wodehouse.

ALABAMA, Table Bay, August 5, 1863.

SIR: I have the honor to inform your excellency of my arrival in this bay in the Confederate States steamer Alabama, under my command. I have come in for supplies and repairs, and in the mean time I respectfully ask leave to land in Cape Town thirty-three prisoners, lately captured by me on board two of the enemy's ships destroyed at sea. The United States consul will doubtless be glad to extend such hospitality and assistance to his distressed countrymen as is required of him by law.

I have, &c.,

R. SEMMES.

[Inclosure 4 in No. 2.]

Sir P. Wodehouse to Captain Semmes, Confederate States navy.

GOVERNMENT HOUSE, Cape Town, August 5, 1863.

SIR: I have the honor to acknowledge the receipt of your letter announcing your arrival in this port, and to state that I have no objection to offer to your landing the prisoners now detained in your ship.

I have further to beg that you will be good enough to state the nature and extent of the supplies and repairs you require, that I may be enabled to form some estimate of the time for which it will be necessary for you to remain in this port.

I have, &c.,

P. E. WODEHOUSE.

[Inclosure 5 in No. 2.]

Captain Semmes, Confederate States navy, to Sir P. Wodehouse.

ALABAMA, Table Bay, August 5, 1863.

SIR: I have had the honor to receive your letter of this day's date, giving me permission to land my prisoners, and requesting me to state the nature of the supplies and repairs which I may require. In the way of supplies I shall need some provisions for my crew, a list of which will be handed you to-morrow by the paymaster, and as for repairs, my boilers need some iron work to be done, and my bends require calking, being quite open. I propose to take on board the necessary materials here, and to proceed with all dispatch to Simon's Bay for the purpose of making these repairs.

I have, &c.,

R. SEMMES.

[Inclosure 6 in No. 2.]

Mr. Adamson to Captain Semmes, Confederate States navy.

COLONIAL OFFICE, Cape Town, August 6, 1863.

SIR: I am directed by the governor of this colony to acquaint you that he has received from the consul for the United States at this port a representation, in which he sets forth that an American bark was yesterday captured, by the ship which you command, in British waters, in violation of the neutrality of the British government, and claims from him redress for the alleged outrage.

His excellency will be glad, therefore, to receive from you any explanation you may wish to give as to the circumstances in which the capture was effected.

I have, &c.,

L. ADAMSON,
For Colonial Secretary.

[Inclosure No. 7 in No. 2.]

*Captain Semmes, Confederate States Navy, to Mr. Adamson.*CONFEDERATE STATES STEAMER ALABAMA,
Cape Town, August 6, 1863.

SIR: I have had the honor to receive your communication of this day's date, informing me that the United States consul at this port had presented to his excellency the

governor a representation in which he sets forth that an American bark was yesterday captured by this ship under my command in British waters, in violation of the neutrality of the British government, and requesting me to make to his excellency such representation as I may have to offer on this subject.

In reply I have the honor to state that it is not true that the bark referred to was captured in British waters, and in violation of British neutrality; she having been captured outside all headlands, and a distance from the nearest land of between five and six miles. As I approached this vessel I called the particular attention of my officers to the question of distance, and they all agree that the capture was made from two to three miles outside of the marine league.

I have, &c.,

R. SEMMES.

[Inclosures 8 to 24, inclusive, form a part of Mr. Graham's dispatch to Mr. Adams of August 17, 1863, printed with Mr. Adams's dispatch to Mr. Seward No. 505, October 1, 1863. See vol. 3, pp. 166-175. They are there printed in the same order as here.]

[Inclosure 25 in No. 2.]

Mr. Rawson to Mr. Graham.

COLONIAL OFFICE, August 19, 1863.

SIR: I am directed by the governor to acknowledge the receipt of your letter of the 17th instant, and to state that he has during the recent transactions endeavored to act in strict conformity with the wishes of her Majesty's government; he will in like manner pursue the same course in any future cases which may arise.

I am to add that his excellency has no reason to believe that either the Alabama or the Tuscaloosa have been allowed to remain in the ports of the colony for a greater length of time than the state of the weather and the execution of the repairs of which they actually stood in need rendered indispensable.

I have, &c.,

RAWSON W. RAWSON,
Colonial Secretary.

[Inclosure 26 in No. 2.]

Statement of Joseph Hopson.

Joseph Hopson, keeper of the Green Point light-house states:

I was on the lookout on Wednesday afternoon when the Alabama and Sea Bride were coming in. When I first saw them the steamer was coming round the northwest of Robben Island, and the bark bore from or about five miles west-northwest. The bark was coming in under all sail with a good breeze, and she took nothing in when the gun was fired. I believe two guns were fired, but the gun I mean was the last, and the steamer then crossed the stern side of the bark, and hauled up to her on the star-board side. He steamed ahead gently, and shortly afterwards I saw the bark put round with her head to the westward, and a boat put off from the steamer and boarded her. Both vessels were then good five miles off the mainland, and quite five, if not six, from the northwest point of Robben Island.

J. HOPSON.

Taken before me at Green Point, this 7th day of August, 1863,

R. JOHNSON DUTTON,
Acting Clerk of the Peace.

Witnesses:

J. SCHONEGEVEL,
JESSE HOPSON.

[Inclosure 27 in No. 2.]

Statement of W. S. Field.

I was present at the old light-house, Green Point, on last Wednesday afternoon, at 2 p. m., and saw the Alabama capture the American bark Sea Bride, and I agree

with the above statement as far as the position of the vessels and their distance from shore.

W. S. FIELD,
Collector of Customs.

CAPE TOWN, August 8, 1863.

I may also remark that I called the attention of Colonel Bisset and the light-house keeper, Hopson, to the distance of the vessels at the time of the capture, as it was probable we should be called upon to give our evidence respecting the affair, and we took a note of the time it occurred.

W. S. FIELD,
Collector of Customs.

CAPE TOWN, August 8, 1863.

[Inclosure 28 in No. 2.]

Statement of John Roe.

I, John Roe, boatman of Cape Town, make the following statement:

I was yesterday, the 5th day of August, 1863, returning from a whale chase in Hunt's Bay, when I first saw the bark Sea Bride, standing from the westward on to the land. I came on to Table Bay, and when off Camp's Bay I saw the smoke of the Alabama some distance from the westward of Robben Island. When I reached the Green Point light-house the steamer was standing up towards the bark, which was about five miles and a half to the westward of Green Point, and about four and a half from the western point of Robben Island. This was their position (being near each other at the time) when the gun was fired.

Dated at Cape Town, this 6th day of August, 1863.

JOHN ROE.

This statement made before me,

R. JOHNSON DUTTON,
Acting Clerk of the Peace.

CAPE TOWN, August 6, 1863.

Witnesses:

J. W. A. RUSSOND,
J. A. B. FLECK.

[Inclosure 29 in No. 2.]

Statement of Frederick Carter.

Frederick Carter, signalman at the Lion's Rump telegraph station, states:

On Wednesday last, the 5th day of August, 1863, I sighted the bark Sea Bride about seven o'clock in the morning, about fifteen or twenty miles off the land, standing into Table Bay from the southwest. There was a light breeze blowing from the north-west, which continued until after midday. About midday I sighted the Alabama screw steamer standing from due north towards Table Bay, intending, as it appeared to me, to take the passage between Robben Island and the Blueberg Beach. She was then between fifteen and eighteen miles off the land.

After sighting the steamer I hoisted the demand for the bark, when she hoisted the American flag, which I reported to the port office, the bark then being about eight miles off the land from Irville Point. No sooner had the bark hoisted the American flag than the steamer turned sharp round in the direction of and towards the bark. The steamer appeared at that time to have been about twelve miles off the land from Irville Point, and about four or five miles outside of Robben Island, and about seven miles from the bark.

The steamer then came up to and alongside of the bark, when the latter was good four miles off the land at or near the old light-house, and five miles off the island. The steamer, after firing a gun, stopped the further progress of the bark. Several boats were sent to her, and after that the bark stood out to sea again, and the Alabama steamed into Table Bay.

F. CARTER,
Chief Signalman, Lion's Rump.

Taken before me, at Cape Town, this 7th day of August, 1863.

R. JOHNSON DUTTON,
Acting Clerk of the Peace.

Witnesses:

J. W. A. RUSSOND,
J. A. B. FLECK.

[Inclosure 30 in No. 2.]

Captain Forryth to Sir P. Wodehouse.

VALOROUS, TABLE BAY, August 6, 1863.

SIR: In compliance with the request conveyed to me by your excellency, I have the honor to report that I have obtained from Captain Semmes a statement of the positions of the Confederate States steamer Alabama and the American bark Sea Bride, when the latter was captured, yesterday afternoon.

Captain Semmes asserts that, at the time of his capturing the Sea Bride, Green Point light-house bore from the Alabama southeast about six or six and a half miles.

This statement is borne out by the evidence of Captain Wilson, port captain of Table Bay, who has assured me that at the time of the Sea Bride being captured he was off Green Point in the port boat, and that only the top of the Alabama's hull was visible.

I am of opinion, if Captain Wilson could only see that portion of the hull of the Alabama, she must have been about the distance from the shore which is stated by Captain Semmes, and I have therefore come to the conclusion that the bark Sea Bride was beyond the limits assigned when she was captured by the Alabama.

I have, &c.,

CHARLES C. FORSYTH.

[Inclosure 31 in No. 2.—Rear-Admiral Sir B. Walker to Sir P. Wodehouse, August 7, 1863. See inclosure 4 in No. 1.]

[Inclosure 32 in No. 2.]

The secretary to the admiralty to Rear-Admiral Sir. B. Walker.

ADMIRALTY, June 1, 1861.

SIR: I am commanded by my lords commissioners of the admiralty to send you herewith, for your information and guidance, a copy of a letter from her Majesty's principal secretary of state for foreign affairs, dated this day, informing my lords that, with a view more effectually to carry out the principle of neutrality, her Majesty's government propose to interdict the armed ships of both contending parties in North America from carrying prizes made by them into the ports, harbors, roadsteads, or waters of the United Kingdom, or of any other of her Majesty's colonies or possessions abroad.

I am, &c.,

W. G. ROMAINE.

[Inclosure 33 in No. 2.]

Lord J. Russell to the lords commissioners of the admiralty.

FOREIGN OFFICE, June 1, 1861.

SIR: Her Majesty's government are, as your lordships are aware, desirous of observing the strictest neutrality in the contest which appears to be imminent between the United States and the so-called Confederate States of North America; and with a view more effectually to carry out this principle, they propose to interdict the armed ships, and also the privateers, of both parties from carrying prizes made by them into the ports, harbors, roadsteads, or waters of the United Kingdom, or of any of her Majesty's colonies or possessions abroad.

I have accordingly to acquaint your lordship that the Queen has been pleased to direct that orders in conformity with the principles above mentioned should forthwith be addressed to all proper authorities in the United Kingdom, and to her Majesty's naval and other authorities in all quarters beyond the United Kingdom, for their guidance in the circumstances.

I have, &c.,

J. RUSSELL.

F [Inclosures 34 to 38, inclusive, form inclosures 6 to 10, inclusive, of document No. 1 of this publication, *ante*.]

[Inclosure 39 in No. 2.]

Mr. Holmes to Mr. Rawson.

CAPE TOWN, August 6, 1863.

SIR: With reference to the seizure by the so-called confederate steamship Alabama of the United States merchant bark Sea Bride, bound from New York to this port, on Thursday, the 5th instant, while entering Table Bay, I beg to state that, from information which I have received, and from my own observation, I believe that the said bark was seized within the neutral limits allowed by the law of nations. I beg, therefore, to protest, on behalf of the principal underwriters in the said United States, whose agent I am in this colony, against the said seizure as being illegal, and to claim the protection of the British government for the said bark and underwriters.

I have, &c.,

G. S. HOLMES,
Agent for said Underwriters.

[Inclosure 40 in No. 2.]

Mr. Rawson to Mr. Holmes.

COLONIAL OFFICE, August 7, 1863.

SIR: I am directed by the governor to acknowledge the receipt of your letter of yesterday's date relative to the capture of the Sea Bride, and to acquaint you that an inquiry is in progress as to the circumstances under which it took place.

I have, &c.,

RAWSON W. RAWSON,
Colonial Secretary.

No. 3.

The secretary to the admiralty to Mr. Hammond.

ADMIRALTY, October 21, 1863.

SIR: With reference to my letter of the 26th ultimo I am commanded by my lords commissioners of the admiralty to send you herewith, for the information of Earl Russell, a copy of a letter from Rear-Admiral Sir Baldwin Walker, dated the 31st August, with copy of its inclosure, relative to two vessels captured by the so-styled confederate vessel Alabama having visited Saldanha Bay, and the question whether the laws of neutrality prescribed by the Queen's proclamation have not been infringed by the proceedings of these vessels.

I am, &c.,

C. PAGET.

[Inclosure 1 in No. 3.]

Rear-Admiral Sir B. Walker to the secretary to the admiralty.

NARCISSUS, SIMON'S BAY, August 31, 1863.

SIR: I beg to inclose, for the information of my lords commissioners of the admiralty, the copy of a letter addressed to me by Captain Forsyth, of her Majesty's ship Valorous, reporting the result of his visit to Saldanha Bay to watch the movements of the Confederate States vessels and prizes said to have gone in that direction.

2. The report of the inhabitants of Hontges Bay, northward of Saldanha Bay, that the prize Sea Bride and the so-called tender Tuscaloosa having visited that place and received on board some men sent from Cape Town, tends to confirm the suspicions referred to in my letter of the 19th instant, paragraph 7; and I believe that these vessels and their cargoes have been since disposed of to some parties at Cape Town. The fact of the Sea Bride, which was the vessel captured off Table Bay by the Alabama, being carried into Hontges Bay, although she may have been previously made into a tender in the same manner as the Tuscaloosa, having her cargo of merchandise still on board, would appear to be a breach of the laws of neutrality prescribed by the Queen's proclamation.

I have, &c.,

B. W. WALKER.

[Inclosure 2 in No. 3.]

Captain Forsyth to Rear-Admiral Sir B. Walker.

VALOROUS, TABLE BAY, August 24, 1863.

SIR: Having received a request, in the evening of the 19th instant, from his excellency Sir P. Wodehouse, (a copy of which I beg to inclose,) that I would proceed to Saldanha Bay and there take such steps as I might think proper for enforcing the instructions of her Majesty's government with regard to British neutrality, I weighed at 9 p. m. under steam and arrived at my destination the next morning. I first examined the southern part of the bay for any vessels that might have anchored in that locality. Not finding any, I proceeded the same afternoon to Hontges Bay, further to the northward, and found, from information obtained from the residents, that two confederate vessels, the Sea Bride and Tuscaloosa, had sailed on the previous morning, having been at anchor two days at this place, and it is reported shipped some men, one from this bay, and others said to have been brought from Cape Town in a cargo boat. On their leaving the port they were communicated with by a steamer, after which the former stood to the westward and the latter to the southward.

The wind having set in from the northward, and there being a very heavy sea outside, I decided on remaining at the anchorage until the weather cleared, more particularly as our starboard fore-bitts have been strained and the stopper-bolts drawn, which I felt anxious to repair before returning to Table Bay.

Having partially completed the above-mentioned repairs, I left Saldanha Bay at 8 a. m. this morning, and arrived here at 5.30 p. m. this day.

I have, &c.,

C. C. FORSYTH.

No. 4.

The secretary to the admiralty to Mr. Hammond.

ADMIRALTY, October 21, 1863.

SIR: I am commanded by my lords commissioners of the admiralty to send you herewith, for the information of Earl Russell, a copy of a letter dated the 17th September, from Rear-Admiral Sir Baldwin Walker, with copy of its inclosure, relative to the movements of the so-styled Confederate States ship Alabama and her prizes.

I am, &c.,

C. PAGET.

[Inclosure 1 in No. 4.]

Rear-Admiral Sir B. Walker to the Secretary to the Admiralty.

NARCISSUS, SIMON'S BAY, September 17, 1863.

SIR: With reference to my letters, dated respectively the 19th and 31st ultimo, relative to the Confederate States ship of war Alabama and the prizes captured by her, I beg to inclose, for their lordships' information, the copy of a statement forwarded to me by the collector of customs at Cape Town, wherein it is represented that the Tuscaloosa and Sea Bride had visited Ichaboe, which is a dependency of this colony.

2. Since the receipt of the above-mentioned document the Alabama arrived at this anchorage, (the 16th instant,) and when Captain Semmes waited upon me I acquainted him of the report, requesting he would inform me if it was true. I was glad to learn from him that it was not so. He frankly explained that the prize Sea Bride in the first place had put into Saldanha Bay through stress of weather, and on being joined there by the Tuscaloosa, both vessels proceeded to Angra Pequena, on the west coast of Africa, where he subsequently joined them in the Alabama, and there sold the Sea Bride and her cargo to an English subject who resides at Cape Town. The Tuscaloosa had landed some wool at Angra Pequena and received ballast, but, he states, is still in commission as a tender. It will therefore be seen how erroneous is the accompanying report. I have no reason to doubt Captain Semmes's explanation; he seems to be fully alive to the instructions of her Majesty's government, and appears to be most anxious not to commit any breach of neutrality.

3. The Alabama has returned to this port for coal, some provisions, and to repair her condensing apparatus.

4. From conversation with Captain Semmes I find that he has been off this cape for the last five days; and as the Vanderbilt left this on the night of the 11th instant, it is surprising they did not see each other.

I have, &c.,

B. W. WALKER.

[Inclosure 2 in No. 4.]

Information received September 11, 1863.

On the 3d August the Sea Bride, now hailing from Hamburg, together with the Tuscaloosa, sailed from Ichaboe. The Sea Bride having landed part of her cargo and filled up with guano, both vessels were remanned from the working party on the islands, and the former crews landed.

Captain Icton, of the Flower of Yarrow, piloted the Alabama into the lagoon, or, as it is called, Galvidea Bay, thirty to forty miles north of Ichaboe, where she landed some cargo.

The Isabella, schooner, of Cape Town, took on board part of Sea Bride's cargo, consisting of tobacco, flour, beef, and pork.

The Tuscaloosa landed her cargo at Angra Pequena, and was ballasted and refitted there.

The Sea Bride and Tuscaloosa are supposed to have sailed for Mauritius.

The above information was yesterday confirmed by the arrival of the Gem from Angra Pequena.

CUSTOM-HOUSE, CAPE TOWN, *September 15, 1863.*

Captain Johnson, formerly of the Albatross, commands the Sea Bride, and Mr. Cloete the Tuscaloosa.

No. 5.

The Secretary to the Admiralty to Mr. Hammond.

ADMIRALTY, *October 21, 1863.*

SIR: I am commanded by my lords commissioners of the admiralty to acquaint you, for the information of Earl Russell, that Rear-Admiral Sir Baldwin Walker, in a letter dated the 2d ultimo, reports that the Confederate States steam vessel Georgia went to sea from Simon's Bay on the evening of the 29th August; and that the following afternoon the federal steamship of war Vanderbilt communicated with a pilot off Cape Hanglip, and then proceeded in search of the confederate ships which have lately visited the Cape of Good Hope. The commander of the Vanderbilt is said to have told the pilot to look out for him off Simon's Bay in the course of a week.

I am, &c.,

C. PAGET.

No. 6.

The Secretary to the Admiralty to Mr. Hammond.

ADMIRALTY, *November 24, 1863.*

SIR: I am commanded by my lords commissioners of the admiralty to acquaint you, for the information of Earl Russell, that Rear-Admiral Sir Baldwin Walker has reported that the Alabama left the Cape of Good Hope on the 25th September, and had not since been heard of by him. The Vanderbilt was reported as having reached the Mauritius.

I am, &c.,

W. G. ROMAINE.

No. 7.

Mr. Elliot to Mr. Hammond.

[Extract.]

DOWNING STREET, December 9, 1863.

I am directed by the Duke of Newcastle to transmit to you, for the information of Earl Russell, a copy of a dispatch which his grace has addressed to the governor of the cape.

[Inclosure in No. 7.—This inclosure is printed under date of December 9, 1863, with No. 7 in the subdivision Alabama, vol. 3, p. 207.]

No. 8.

Mr. Elliot to Mr. Hammond.

[Extract.]

DOWNING STREET, January 29, 1864.

With reference to the proceedings at the Cape of Good Hope of the confederate war-steamer Alabama and her prizes, I am directed by the Duke of Newcastle to transmit to you, for the consideration of Earl Russell, a copy of a further dispatch from the governor of that colony on the subject, and I am to request that you will state to his lordship that his grace proposes to inform Sir P. Wodehouse that, in the dispatch addressed to him from this office, of which a copy is inclosed, it was not intended to censure his conduct in any respect, or to express a doubt as to its propriety in regard to the Sea Bride.

[Inclosure 1 in No. 8.]

*Sir P. Wodehouse to the Duke of Newcastle.*GOVERNMENT HOUSE, CAPE TOWN,
December 19, 1863.

MY LORD DUKE: I have had the honor to receive your grace's despatch of the 4th ultimo, from which I regret to learn that the course taken here relative to the confederate war steamer Alabama and her prizes has not in some respects given satisfaction to her Majesty's government.

I must only beg your grace to believe that no pains were spared by the late acting attorney general or by myself to shape our course in what we believed to be conformity with the orders of her Majesty's government and the rules of international law, as far as we could ascertain and interpret them.

Mr. Denysen has been so constantly engaged with professional business since the arrival of the mail that I have been prevented from discussing with him the contents of your dispatch; but I think it right, nevertheless, to take advantage of the first opportunity for representing to your grace the state of uncertainty in which I am placed by the receipt of this communication, and for soliciting such further explanations as may prevent my again falling into error on these matters. In so doing I trust you will be prepared to make allowance for the difficulties which must arise out of this peculiar contest, in respect of which both parties stand on a footing of equality as belligerents, while only one of them is recognized as a nation.

In the first place, I infer that I have given cause for dissatisfaction in not having more actively resented the fact that the Sea Bride, on the day after her capture, was brought a short distance within British waters.

Your grace demurs to my having accepted Captain Semmes's apology for this improper act, which he ascribed to inadvertence. You will pardon my noticing that the fact of the act having been done through inadvertence was established by the United States consul himself, one of whose witnesses stated, "the officer in command of the bark came on deck about that time, and, stamping his foot as if chagrined to find her so near the land, ordered her further off, which was done immediately."

I confess that on such evidence of such a fact I did not consider myself warranted in requiring the commander of her Majesty's ship Valorous to take possession of the Alabama's prize.

The questions involved in the treatment of the Tuscaloosa are far more important

and more embarrassing; and first let me state, with reference to the suggestion that Captain Semmes should have been required to admit or deny the allegations of the United States consul, that no such proceeding was required. There was not the slightest mystery or concealment of the circumstances under which the Tuscaloosa had come into and then was in possession of the confederates. The facts were not disputed. We were required to declare what was her actual status under those facts. We had recourse to Wheaton, the best authority on international law within our reach—an authority of the nation with whom the question had arisen; an authority which the British secretary for foreign affairs had recently been quoting in debates on American questions in the House of Lords.

Your grace intimates that the citation from this authority by the acting attorney general does not appear to have any direct bearing upon the question.

You will assuredly believe that it is not from any want of respect for your opinion, but solely from a desire to avoid future error, that I confess my inability to understand this intimation, or, in the absence of instructions on that head, to see in what direction I am to look for the law bearing on the subject.

The paragraph cited made no distinction between a vessel with cargo and a vessel without cargo; and your grace leaves me in ignorance whether her character would have been changed if Captain Semmes had got rid of the cargo before claiming for her admission as a ship of war. Certainly, acts had been done by him which, according to Wheaton, constituted a "setting forth as a vessel of war."

Your grace likewise states, "Whether in the case of a vessel duly commissioned as a ship of war, after being made prize by a belligerent government without being first brought *infra præsidia*, or condemned by a court of prize, the character of prize, within the meaning of her Majesty's orders, would or would not be merged in a national ship of war, I am not called upon to explain."

I feel myself forced to ask for further advice on this point, on which it is quite possible I may be called upon to take an active part. I have already, in error, apparently, admitted a confederate prize as a ship of war. The chief authority on international law in which it is in my power to refer is Wheaton, who apparently draws no distinction between ships of war and other ships when found in the position of prizes, and I wish your grace to be aware that within the last few days the commander of a United States ship of war observed to me that if it were his good fortune to capture the Alabama he should convert her into a federal cruiser.

I trust your grace will see how desirable it is that I should be fully informed of the views of her Majesty's government on these points, and that I shall be favored with a reply to this dispatch at your earliest convenience.

I have, &c.,

P. E. WODEHOUSE.

[Inclosure 2 in No. 8.—The Duke of Newcastle to Sir P. Wodehouse, November 4, 1863. See inclosure in No. 7; also vol. 3, p. 207.]

No. 9.

The Secretary to the Admiralty to Mr. Hammond.

[Extract.]

ADMIRALTY, February 15, 1864.

I am commanded by my lords commissioners of the admiralty to send you herewith, for the information of Earl Russell, a copy of a letter, dated the 5th January, from Rear-Admiral Sir Baldwin Walker, with copies of its inclosure, reporting that the bark Tuscaloosa, under the confederate flag, has been detained by the British authorities at Simon's Bay, Cape of Good Hope, until she can be transferred to her lawful owners, for violation of her Majesty's orders for the maintenance of neutrality, the vessel being considered as an uncondemned prize, captured by the confederate vessel of war Alabama.

[Inclosure 1 in No. 9.]

Rear-Admiral Sir B. Walker to the Secretary to the Admiralty.

NARCISSUS, SIMON'S BAY, January 5, 1864.

SIR: I request you will be pleased to acquaint my lords commissioners of the admiralty that the bark called the Tuscaloosa, under the flag of the Confederate States of

North America, (referred to in my letter of the 19th August last,) termed a tender to the Alabama, returned to this anchorage on the 26th ultimo from cruising off the coast of Brazil.

2. In order to ascertain the real character of this vessel, I directed the boarding officer from my flag-ship to put the questions as per inclosure No. 1 to the officer in command, Lieutenant Low, of the Alabama; and having satisfied myself from his answers that the vessel was still an uncondemned prize captured by the Alabama under the name of the Conrad, of Philadelphia, I communicated the circumstances to the governor of this colony, who, concurring in opinion with me that she ought to be retained under her Majesty's control and jurisdiction until reclaimed by her proper owners for violation of her Majesty's orders for the maintenance of her neutrality, I caused the so-called Tuscaloosa to be taken possession of, informing Lieutenant Low at the same time of the reason for doing so.

3. Lieutenant Low has entered a written protest against the seizure of the vessel, the copy of which, together with a reply of the governor, I inclose for their lordship's information, as well as a copy of all the correspondence which has passed on this subject.

4. Lieutenant Low having informed me that he expects the Alabama shortly to arrive at this place, I have allowed him and his crew to remain on board the Conrad for the present; but should the Alabama not make her appearance, I have acquainted him that I will grant him and his officers (probably only one besides himself) a passage to England in one of the packets. The crew he wishes to discharge if there is no opportunity of their rejoining the Alabama.

5. The vessel in question is at present moored in this bay, in charge of an officer and a few men belonging to her Majesty's ship Narcissus, where she will remain until she can be properly transferred to her lawful owners, as requested by the governor.

I have, &c.,

B. W. WALKER.

[Inclosure 2 in No. 2.]

Questions to be put to the officer in command or charge of the bark Tuscaloosa, carrying the flag of the so-called Confederate States of America.

Ship's name and nation—Tuscaloosa. Confederate.

Name and rank of officer in command—Lieutenant Low, late Alabama.

Tonnage of the ship—five hundred.

Number of officers and men on board—four officers and twenty men.

Number and description of guns on board—three small brass guns, two rifled twelve-pounders, and one smooth-bore —pounder.

Where is she from—St. Catherine's, Brazil.

Where is she bound—Cruising.

For what purpose has the ship put into this port—for repairs and supplies.

Is it the same ship that was captured by the Alabama, and afterward came to this port on the 9th of August last—Yes.

What was her original name on being captured by the Alabama—Conrad, of Philadelphia.

When was she captured by Alabama—21st June, 1863.

To what nation and to whom did she belong before her capture—Federal States of America.

Has she been taken before any legally constituted admiralty court of the Confederate States—No.

Has she been duly condemned as a lawful prize by such court to the captors—No.

What is she now designated—tender to the Alabama.

What papers are there on board to constitute her as the confederate bark Tuscaloosa—The commission of the lieutenant commanding the Tuscaloosa from Captain Semmes. The officers also have commissions to their ship from him.

Are the papers which belonged to her before she was seized by the Alabama on board—No.

Is there any cargo on board, and what does it consist of—No cargo; only stores for ballast.

JOHN LOW,

Lieutenant Commander Confederate States bark Tuscaloosa.

FRANCIS L. WOOD,

Lieutenant and Boarding Officer, her Majesty's ship Narcissus.

[Inclosure 3 in No. 9.]

Rear-Admiral Sir B. Walker to Sir P. Wodehouse.

NARCISSUS, SIMON'S BAY, December 26, 1863.

SIR: In consequence of the arrival of the Tuscaloosa, (the vessel captured by the Confederate States ship of war Alabama on the 21st June last,) having again returned to this anchorage this evening, I called upon the officer in command to answer the inclosed questions, which, together with the replies, I forward for your excellency's information.

As it appears that this vessel, the Tuscaloosa, late federal ship Conrad, is an uncondemned prize, brought into British waters in violation of her Majesty's orders made for the purpose of maintaining her neutrality, I therefore consider that she ought to be detained with the view of her being reclaimed by her original owners, in accordance with the opinion of the law officers of the Crown forwarded for my guidance, the copy of which I have already transmitted to you.

I have, &c.,

B. W. WALKER.

[Inclosure 4 in No. 9.]

Sir P. Wodehouse to Rear-Admiral Sir B. Walker.

CLAREMONT, December 27, 1863.

SIR: I have the honor to acknowledge the receipt of your excellency's letter of yesterday's date, and to state that, after careful consideration of the instructions received by the last mail from her Majesty's government, and of the view taken by them of our former proceedings with respect to the Tuscaloosa, I concur in your opinion that it will be proper to retain that vessel under her Majesty's control and jurisdiction until properly reclaimed by her original owners.

I have, &c.,

P. E. WODEHOUSE.

[Inclosure 5 in No. 9.]

Rear-Admiral Sir B. Walker to Lieutenant Low, C. S. N.

NARCISSUS, SIMON'S BAY, December 27, 1863.

SIR: As it appears that the Tuscaloosa, under your charge and command, is a vessel belonging to the federal States of America, having been captured by the Confederate States ship of war Alabama, and, not having been adjudicated before any competent prize court, is still an uncondemned prize, which you have brought into this port in violation of her Britannic Majesty's orders for the maintenance of her neutrality, I have the honor to inform you that, in consequence, I am compelled to detain the so-called Tuscaloosa, (late Conrad,) with a view of her being restored to her original owners, and I request you will be so good as to transfer the charge of the vessel to the officer bearing this letter to you.

I am, &c.,

B. W. WALKER.

[Inclosure 6 in No. 9.]

Rear-Admiral Sir B. Walker to Sir P. Wodehouse.

NARCISSUS, SIMON'S BAY, December 28, 1863.

SIR: I have the honor to inform your excellency that, acting upon your concurrence in my opinion with reference to the instructions received from home by the last mail, I have detained the bark Tuscaloosa, (late Conrad, of Philadelphia,) because she is an uncondemned prize, taken by the Confederate States ship of war Alabama, and brought into British waters in violation of her Majesty's orders for maintaining her neutrality, and with the view to her being restored to her original owners.

I shall be ready to hand her over to the consul of the United States at Cape Town, or to any person you may appoint to take charge of her.

I should add that Lieutenant Low has given up the Tuscaloosa (late Conrad) under protest, which he is about to make in writing, a copy of which shall be transmitted to your excellency as soon as received.

I have, &c.,

B. W. WALKER.

[Inclosure 7 in No. 9.]

Lieutenant Low, Confederate States Navy, to Rear-Admiral Sir B. Walker.

TUSCALOOSA, SIMON'S BAY,
Cape of Good Hope, December 28, 1863.

SIR: I have the honor to inclose, for your information, copy of a letter which I have forwarded this day to his excellency the governor of the colony on the subject of the seizure in this port of the confederate ship Tuscaloosa.

I am, &c.,

JOHN LOW.

[Inclosure 8 in No. 9.]

Lieutenant Low, Confederate States Navy, to Sir P. Wodehouse.

TUSCALOOSA, SIMON'S BAY,
Cape of Good Hope, December 28, 1863.

SIR: As the officer in command of the Confederate States ship Tuscaloosa, tender to the Confederate States steamer Alabama, I have to record my protest against the recent extraordinary measures which have been adopted toward me and the vessel under my command by the British authorities of this colony.

In August last the Tuscaloosa arrived in Simon's Bay. She was not only recognized in the character which she lawfully claimed and still claims to be, viz, a commissioned ship of war belonging to a belligerent power, but was allowed to remain in the harbor for the period of seven days, taking in supplies and effecting repairs, with the full knowledge and sanction of the authorities.

No intimation was given that she was regarded merely in the light of an ordinary prize, or that she was considered to be violating the laws of neutrality. Nor, when she notoriously left for a cruise on active service, was any intimation whatever conveyed that on her return to the port of a friendly power, where she had been received as a man-of-war, she would be regarded as a "prize," as a violator of the Queen's proclamation of neutrality, and consequently liable to seizure. Misled by the conduct of her Majesty's government, I returned to Simon's Bay on the 26th instant, in very urgent want of repairs and supplies; to my surprise I find the Tuscaloosa is now no longer considered as a man-of-war, and she has by your orders, as I learn, been seized for the purpose of being handed over to the person who claims her on behalf of her late owners.

The character of the vessel, viz, that of a lawful commissioned man-of-war of the Confederate States of America, has not been altered since her first arrival in Simon's Bay, and she, having been once fully recognized by the British authorities in command in this colony, and no notice or warning of change of opinion or of friendly feeling having been communicated by public notification or otherwise, I was entitled to expect to be again permitted to enter Simon's Bay without molestation.

In perfect good faith I returned to Simon's Bay for mere necessities, and in all honor and good faith in return, I should, on change of opinion or of policy on the part of the British authorities, have been desired to leave the port again.

But by the course of proceedings taken, I have been (supposing the view now taken by your excellency's government to be correct) first misled and next entrapped.

My position and character of my ship will most certainly be vindicated by my government. I am powerless to resist the affront offered to the Confederate States of America by your excellency's conduct and proceedings.

I demand, however, the release of my ship; and if this demand be not promptly complied with, I hereby formally protest against her seizure, especially under the very peculiar circumstances of the case.

I have, &c.,

JOHN LOW.

CLAIMS AGAINST GREAT BRITAIN.

[Inclosure 9 in No. 9.]

Sir P. Wodehouse to Rear-Admiral Sir B. Walker.

GOVERNMENT HOUSE, December 30, 1863.

SIR: I have the honor to acknowledge the receipt of your excellency's letter of yesterday's date and its inclosures, and beg to forward a copy of the reply given to the protest of the commander of the Tuscaloosa.

I have, &c.,

P. E. WODEHOUSE.

[Inclosure 10 in No. 9.]

Mr. Rawson to Lieutenant Low, C. S. N.

COLONIAL OFFICE, December 29, 1863.

SIR: I am directed by the governor to acknowledge the receipt of your letter of yesterday's date protesting against the seizure of the Tuscaloosa, whose character you represent to be the same as when, in August last, she was admitted into the port of Simon's Bay, and I am to acquaint you, in reply, that a full report was submitted to her Majesty's government of all that took place on the first visit of the Tuscaloosa, and that the seizure has now been made in conformity with the opinion expressed by them on that report.

Your protest will of course be transmitted for their consideration.

I have, &c.,

RAWSON W. RAWSON.

[Inclosure 11 in No. 9.]

Rear-Admiral Sir B. Walker to Sir P. Wodehouse.

NARCISSUS, SIMON'S BAY,
December 29, 1863.

SIR: Lieutenant Low, the officer belonging to the Confederate States ship of war Alabama, late in charge of the bark called the Tuscaloosa, (properly the Conrad, of Philadelphia,) having sent me a copy of the protest which he has forwarded to your excellency against the detention of that vessel, I think it right to inclose for your information the copy of my letter to Lieutenant Low explaining the circumstances under which the so-called Tuscaloosa is detained.

I have, &c.,

B. W. WALKER.

N. B.—I beg to inclose a list of the officers and men on board the Conrad, late Tuscaloosa, as well as an inventory of stores, &c., on board, distinguishing those which are said to belong to the Alabama.

[Inclosure 12 in No. 9.]

List of confederate officers and crew on board the bark Conrad, late Tuscaloosa.

Name.	Rank or rating.	Whence.
J. Low	Lieutenant commanding.	
W. H. Sinclair	Master.	
J. T. Merior	Master's mate.	
A. Marmilstein	Master's mate.	
Martin Molk	Boatswain's mate	Alabama, June 22, 1863.
R. Owens	Boatswain's mate	Alabama, June 22, 1863.
H. Legris	Quartermaster	Alabama, June 22, 1863.
E. Jones	Quartermaster	Alabama, June 22, 1863.
T. Williams	Ship's cook	Alabama, June 22, 1863.
R. Williams	A. B.	Alabama, June 22, 1863.
W. Jones	A. B.	Alabama, June 22, 1863.
W. Gibbs	A. B.	At sea, August 17, 1863.
E. Morrell	A. B.	At sea, August 17, 1863.
A. Anderson	Ordinary	At sea, August 17, 1863.
H. Anderson	Ordinary	At sea, August 17, 1863.
S. Roberts	Ordinary	At sea, August 17, 1863.
T. Allman	Steward	Talisman, June 21, 1863.
W. Renton	A. B.	Alabama, June 21, 1863.
S. Brewer	A. B.	Alabama, June 21, 1863.
J. Duggan	A. B.	Alabama, June 21, 1863.
J. Ross	Ordinary	At sea, August 17, 1863.
C. Carew	Ordinary	At sea, August 17, 1863.
S. Robertson	Carpenter's mate	At sea, August 17, 1863.
Ben Backstay	Ordinary	At sea, August 17, 1863.

List of stores and fittings belonging to the bark Conrad.

1 chronometer.	1 bower anchor, 26 cwt.
1 barometer.	1 kedge anchor, 6 cwt.
2 sextants.	1 kedge anchor, 3 cwt.
1 telescope.	2 chain cables, 55 fathoms.
2 timepieces.	1 box of charts.
1 Brazilian ensign.	Standing and running rigging complete, but
1 American ensign.	in very bad condition.
1 longboat.	No spare stores of any description on board.
2 cutters.	

JOHN LOW,
Lieutenant Comd'g Confederate States bark Tuscaloosa.
W. R. KENNEDY,
Lieutenant, her Majesty's ship Narcissus.

List of stores belonging to the confederate sloop-of-war Alabama, on board the Conrad.

1 chronometer.	6 12-pounder rifle shot.
3 sextants.	6 12-pounder round shot.
1 telescope.	500 ball cartridges.
1 code of signals and signal-book.	500 percussion caps.
1 Dutch ensign.	12 revolver pistols.
1 confederate ensign.	300 ball cartridges for revolver pistols.
22 rifles and bayonets.	500 percussion caps for revolver pistols.
2 12-pounder rifled brass guns.	5 outlasses.
1 12-pounder smooth-bore brass gun.	8 water-casks.
2 barrels gunpowder, (100 pounds each.)	3 charts.
100 cartridges, (1 pound each.)	

JOHN LOW,
Lieutenant Comd'g Confederate States bark Tuscaloosa.
W. R. KENNEDY,
Lieutenant, her Majesty's ship Narcissus.

[Inclosure 13 in No. 9.]

*Sir P. Wodehouse to Rear-Admiral Sir B. Walker.*GOVERNMENT HOUSE, CAPE TOWN, *January 4, 1864.*

SIR: I beg to acquaint your excellency that it appears, from a communication received from the consul for the United States, that he is not in a position to receive charge of the Tuscaloosa on account of her original owners, and that he therefore desires her to remain for the present in charge of the British authorities. Under these circumstances, and as I cannot take charge of the vessel without entailing some expense on her Majesty's government, I am induced to ask whether it will be in your excellency's power to make arrangements for her safe custody until she can be properly transferred to her lawful owners.

I have, &c.,

P. E. WODEHOUSE.

No. 10.

*Sir F. Rogers to Mr. Hammond.*DOWNING STREET, *February 25, 1864.*

SIR: With reference to previous correspondence on this subject, I am directed by the Duke of Newcastle to transmit to you, for the consideration of Earl Russell, the accompanying copies of two dispatches received from the governor of the Cape of Good Hope, reporting the circumstances connected with the seizure of the Tuscaloosa by the colonial government.

I am, &c.,

FREDERICK ROGERS.

[Inclosure 1 in No. 10.]

*Sir P. Wodehouse to the Duke of Newcastle.*GOVERNMENT HOUSE, CAPE TOWN, *January 11, 1864.*

MY LORD DUKE: I very much regret having to acquaint your grace that the confederate prize vessel, the Tuscaloosa, has again entered Simon's Bay, and that the naval commander-in-chief and myself have come to the conclusion that, in obedience to the orders transmitted to his excellency by the admiralty, and to me by your grace's dispatch of the 4th November last, it was our duty to take possession of the vessel and to hold her until properly claimed by her original owners. The admiral, therefore, sent an officer with a party of men from the flag-ship to take charge of her, and to deliver to her commander a letter in explanation of the act. Copies of his protest, addressed to me, and of my reply, are inclosed. He not unnaturally complains of having been now seized after he had on the previous occasion been recognized as a ship of war. But this is manifestly nothing more than the inevitable result of the overruling by her Majesty's government of the conclusion arrived at on the previous occasion by its subordinate officer.

The consul for the United States, on being informed of what had taken place, intimated his inability to take charge of the ship on account of the owners, and expressed a desire that it should remain in our charge until he was put in possession of the requisite authority. Accordingly, after taking the opinion of the attorney general, it was arranged that the vessel should remain in the charge of Sir Baldwin Walker.

I ought to explain that the seizure was made without previous reference to the attorney general. I did not consider such a reference necessary. The law had been determined by her Majesty's government on the previous case. The admiral was of opinion that we had only to obey the orders we had received, and on his intimating that opinion I assented.

Your grace will observe that, at the request of the officers of the Tuscaloosa, the admiral has permitted them to remain on board, in expectation of the immediate arrival of the Alabama, to which ship they wish to return. I should otherwise have thought it my duty to provide them with passages to England at the cost of her Majesty's government, by whom, I conclude, they would be sent to their own country; and it is probable that if the Alabama should not soon make her appearance such an arrangement will become necessary.

I have only to add that I have thought it advisable, after what has now occurred, to intimate to the United States consul that we should probably be under the necessity of adopting similar measures in the event of an uncondemned prize being fitted for cruising and brought into one of our ports by a federal ship of war. I did not speak posi-

tively, because I have been left in doubt by your grace's instructions whether some distinction should not be drawn in the case of a ship of war of one belligerent captured and applied to the same use by the other belligerent, but the consul was evidently prepared for such a step. Copies of all the correspondence are inclosed.

I have, &c.,

P. E. WODEHOUSE.

[Inclosure 2 in No. 10.]

Mr. Rawson to Mr. Graham.

COLONIAL OFFICE, December 28, 1863.

SIR: I am directed by the governor to acquaint you that the Tuscaloosa, having again arrived in Simon's Bay, will, under instructions lately received from her Majesty's government, be retained under her Majesty's control and jurisdiction until properly reclaimed by her original holders.

I have, &c.,

RAWSON W. RAWSON,
Colonial Secretary.

[Inclosure 3 in No. 10.]

Mr. Graham to Sir P. Wodehouse.

UNITED STATES CONSULATE, CAPE TOWN,
Cape of Good Hope, December 29, 1863.

SIR: I have to acknowledge the receipt of your letter of yesterday's date in reference to the Tuscaloosa.

By virtue of my office as consul for the United States of America in the British possessions of South Africa, of which nation the original owners of the Conrad, *alias* Tuscaloosa, are citizens, I possess the right to act for them when both they and their special agents are absent. I can institute a proceeding *in rem* where the rights of property of fellow-citizens are concerned without a special procuration from those for whose benefit I act, but cannot receive actual restitution of the *res* in controversy without a special authority. (See United States Statutes at Large, vol. I, p. 254, notes 2 and 3.)

Under these circumstances I am content that the vessel in question should, for the present, or until the properly authenticated papers and power of attorney shall be received from the owners in America, remain in possession and charge of her Majesty's naval officers. But should it hereafter be determined to give the vessel up to any party other than the real owners, I desire to have sufficient notice of the fact, so that I may take the proper steps to protect the interests of my absent fellow-citizens.

With regard to the property of American citizens seized here at the custom-house, and which was formerly part of the Sea Bride's cargo, I would suggest that it also be held by the colonial government, subject to the order of the original owners. An announcement to that effect from you would be received with great satisfaction by me.

I have, &c.,

WALTER GRAHAM,
United States Consul.

[Inclosure 4 in No. 10.]

Sir P. Wodehouse to the Duke of Newcastle.

GOVERNMENT HOUSE, CAPE TOWN, January 19, 1864.

MY LORD DUKE: With reference to my dispatch of the 11th instant, I beg to transmit, for your grace's consideration and instructions, copies of further correspondence with the naval commander-in-chief, the consul of the United States, and the commander of the Tuscaloosa.

I have, &c.,

P. E. WODEHOUSE.

[Inclosure 5 in No. 10.]

Lieutenant Kennedy and Mr. Pounds to Sir B. Walker.

NARCISSUS, SIMON'S BAY, January 13, 1864.

SIR: In compliance with your order of the 12th instant we have been on board the bark Conrad, of Philadelphia, to confer with Captain J. Hoeta, the United States

consular agent, upon the condition of the said ship about to be restored to her original owners, and as we have agreed to and signed the report drawn up by Captain Hoets for the information of the United States consul, we have the honor to forward a copy of the same, with a notation signed by Captain Hoets, which furnishes the necessary record of the transaction.

We have, &c.,

W. R. KENNEDY, *Lieutenant.*
THOMAS POUNDS.

[Inclosure 6 in No. 10.]

Sir P. Wodehouse to Rear-Admiral Sir B. Walker.

GOVERNMENT HOUSE, *Cape Town, January 19, 1864.*

SIR: I have the honor to acknowledge the receipt of your excellency's letter of the 13th instant, and in transmitting copies of correspondence which has passed with the consul of the United States and the commander of the Tuscaloosa, I have to beg that you will be good enough to give directions for the property alleged to belong to the Alabama being stored in the dockyard as proposed.

I have, &c.

P. E. WODEHOUSE.

[Inclosure 7 in No. 10.]

Lieutenant Low, C. S. N., to Sir P. Wodehouse.

CAPE TOWN, *January 14, 1864.*

SIR: I beg to acknowledge receipt of your letter of yesterday, in which I am informed that it is your excellency's intention to request the naval commander-in-chief to allow the arms and ammunition belonging to the Confederate States to be stored in the dockyard at Simon's Town.

While thanking your excellency for this intention, I beg to state that as these were placed in my charge by Captain Semmes of the confederate steamship Alabama, I should prefer handing them to his agents in this colony, to be stored by them under the usual customs regulations, until instructions can be received as to their disposal, and would respectfully solicit your excellency's permission to have them landed, as I purpose leaving for England by the next mail steamer.

I have further to thank your excellency, on behalf of the officers of the Tuscaloosa, for your offer of assistance on leaving the colony, and to state they have already made their arrangements.

I have, &c.,

JOHN LOW.

[Inclosure 8 in No. 10.]

Mr. Rawson to Lieutenant Low.

COLONIAL OFFICE, *January 18, 1864.*

SIR: I am directed by the governor to acknowledge the receipt of your letter of the 14th instant, and to state that on full consideration of the case he thinks it advisable to adhere to the proposal already made, that the guns and other property alleged to belong to the Alabama should be placed in the dockyard at Simon's Town. They will then be subject to such orders as her Majesty's government may be pleased to make in the matter.

I am also to transmit to you, for your information, copies of a letter which has been received from the consul of the United States, and of the reply given to it by his excellency's directions.

I have, &c.,

RAWSON W. RAWSON.

[Inclosure 9 in No. 10.]

Mr. Graham to Sir P. Wodehouse.

UNITED STATES CONSULATE,
Cape Town, January 16, 1864.

SIR: The report of J. M. Hoets, esquire, on the Tuscaloosa, countersigned by Lieutenant Kennedy of the Narcissus, has been received, and a copy furnished to Admiral

Walker. Appended to that report is a list of articles claimed by Lieutenant Low of the Tuscaloosa as belonging to the confederate steamer Alabama. Now among the articles enumerated in the list are three 12-pounder cannon taken from the American ship Talisman, and one smaller brass cannon taken from the Sea Bride, as I can prove by the testimony of a competent witness. These cannon I request shall be held for their owners in the same manner as the vessel. Not being able to identify the other articles in this list with perfect certainty, I shall not claim them.

I have, &c.,

WALTER GRAHAM,
United States Consul.

[Inclosure 10 in No. 10.]

Mr. Rawson to Mr. Graham.

COLONIAL OFFICE, January 18, 1864.

SIR: I am directed by the governor to acknowledge the receipt of your letter of the 16th instant, and to state that the guns to which you refer will be held subject to such instructions as her Majesty's government may think fit to issue respecting them.

I have, &c.,

RAWSON W. RAWSON,
Colonial Secretary.

No. 11.

The Secretary to the Admiralty to Mr. Hammond.

[Extract.]

ADMIRALTY, February 25, 1864.

With reference to former correspondence I am commanded by my lords commissioners of the admiralty to send you herewith, for the information of Earl Russell, a copy of a letter from Rear-Admiral Sir Baldwin Walker, dated the 18th January, with copies of its inclosures, relating to the vessel called the Tuscaloosa, and reporting that he has ordered a passage to England in the mail packet for Lieutenant Low, lately in charge of the Tuscaloosa, and of Mr. Sinclair, his first officer.

[Inclosure 1 in No. 11.]

Rear-Admiral Sir B. Walker to the Secretary to the Admiralty.

NARCISSUS, SIMON'S BAY, January 18, 1864.

SIR: With reference to my letter of the 5th instant, I have the honor to submit, for their lordship's information, a further correspondence between the governor of this colony and myself relative to the American vessel Conrad, of Philadelphia, lately called the Tuscaloosa.

2. Lieutenant Low, belonging to the Confederate States ship of war Alabama, lately in charge of the Tuscaloosa, having paid off and discharged his crew, finally quitted the vessel on the 9th instant; and I have ordered him a passage to England by the mail packet Saxon, together with his first officer, Mr. Sinclair.

3. The Conrad now remains in charge of a warrant officer and two ship-keepers, awaiting to be properly claimed or disposed of as the government may direct.

I have, &c.,

B. W. WALKER,
Rear-Admiral.

[Inclosure 2 in No. 11.]

Rear-Admiral Sir B. Walker to Sir P. Wodehouse.

NARCISSUS, SIMON'S BAY, January 6, 1864.

SIR: With reference to your excellency's communication of yesterday's date, I have the honor to inform you that I will make arrangements for the safe custody of the Conrad, of Philadelphia, (late Tuscaloosa,) by mooring her in this bay and putting

ship-keepers in charge of her until she can be properly transferred to her lawful owners.

Lieutenant Low has requested to be allowed to remain on board the vessel, together with his crew, for the present, as he expected the Alabama to arrive here shortly, to which arrangement I have made no objection.

There are some guns and other articles on board the Conrad said to belong to the Alabama, a list of which I have already forwarded to your excellency. It is a matter for consideration how these things should be disposed of.

I think, as a precautionary measure, it may be desirable that some person on the part of the United States consul should visit the Conrad, to observe the state she is in on being taken into British custody, to prevent any question thereon hereafter.

I have, &c.,

B. W. WALKER.

Inclosure 3 in No. 11.

Sir P. Wodehouse to Rear-Admiral Sir B. Walker.

GOVERNMENT HOUSE, *January 9, 1864.*

SIR: With reference to your excellency's letter of the 6th instant, I have the honor to inclose the copy of a letter from the consul of the United States relative to an inspection of the Tuscaloosa.

I have, &c.,

P. E. WODEHOUSE.

[Inclosure 4 in No. 11.]

Mr. Graham to Sir P. Wodehouse.

UNITED STATES CONSULATE,
Cape Town, January 8, 1864.

SIR: Your letter of this date is received, and its request complied with. I have appointed Mr. J. M. Hoets, of Simon's Town, to inspect the Tuscaloosa, and to report to me her present condition and equipments. He is also instructed to submit this report to the admiral of the station, or some one authorized to act for him, for an indorsed approval or dissent.

When that report is received I will take pleasure in sending you a copy.

I have, &c.,

WALTER GRAHAM, *United States Consul.*

[Inclosure 5 in No. 11.]

Mr. Hoets to Mr. Graham.

SIMON'S TOWN, *January 13, 1864.*

SIR: Pursuant to your letter of the 8th instant, appointing me to make a survey of the bark Tuscaloosa, now in Simon's Bay, and take an inventory of the movables on board, I now beg to report as follows:

On going on board at 10 a. m. found the vessel lying moored and dismantled, with only stone ballast in her, the hull, as far as can be ascertained (without probing) sound, making very little water; decks defective, considerably worn, particularly the poop deck; the seams open, and some of the planks in a decayed state; outside found seams slack, the metal on her bottom much worn and ragged—about one hundred sheets entirely off in different places.

The general condition of sails and running rigging very much worn; spars, standing rigging, boats, anchors, and cables serviceable; the ship only having one heavy anchor, another was supplied by her Majesty's dockyard to moor ship.

Having examined the movables, I am satisfied as to the correctness of the lists taken by Lieutenant Kennedy on the 2d January last, of which the attached are copies.

I have, &c.,

J. M. HOETS,
United States Consular Agent.

We concur in the above:

W. R. KENNEDY, *Lieutenant, H. M. S. Narcissus.*
THOMAS POUNDS, *Master, H. M. S. Narcissus.*

[Inclosure 6 in No. 11.]

Rear-Admiral Sir B. Walker to Sir. P. Wodehouse.

NARCISSUS, SIMON'S BAY, January 18, 1864.

SIR: Referring to your communication of the 9th instant relative to the inspection of the Conrad, lately called the Tuscaloosa, I beg to inclose for your excellency's information the report of the condition of this vessel and her equipments, made by Mr. J. Hoets (on the part of the United States consul) and Lieutenant Kennedy and Mr. Pounds, master of her Majesty's ship Narcissus.

I have, &c.,

B. W. WALKER.

[Inclosure 7 in No. 11.]

List of sails belonging to the bark Conrad, late Tuscaloosa, unbent and stowed in after-hold.

[This list is omitted.]

[Inclosure 8 in No. 11.]

List of stores belonging to the confederate sloop-of-war Alabama, on board the Conrad:

1 chronometer.	6 12-pounder rifle shot.
3 sextants.	6 12-pounder round shot.
1 telescope.	500 ball cartridges.
1 code of signals and signal-book.	500 percussion caps.
1 Dutch ensign.	12 revolver pistols.
1 confederate ensign.	300 ball cartridges for pistols.
22 rifles and bayonets.	500 percussion caps for pistols.
2 12-pounder rifled brass guns.	5 cutlasses.
1 12-pounder smooth-bore brass gun.	8 water casks.
2 barrels gunpowder, 100 lbs. each.	3 charts.
100 cartridges, (1 lb.)	

J. LOW,

Lieutenant commanding Confederate States bark Tuscaloosa.

W. R. KENNEDY,

Lieutenant, her Majesty's ship Narcissus.

No. 12.

Mr. Elliot to Mr. Hammond.

DOWNING STREET, March 7, 1863.

SIR: With reference to your letter of the 22d ultimo relative to the seizure of the Tuscaloosa by the authorities at the Cape of Good Hope, I am directed by the Duke of Newcastle to transmit to you, for the information of Earl Russell, a copy of a dispatch which his grace has addressed to the governor of that colony on the subject.

I am, &c.,

T. FREDK. ELLIOT.

[Inclosure in No. 12.]

The Duke of Newcastle to Sir P. Wodehouse.

DOWNING STREET, March 4, 1864.

SIR: I have received your dispatches of the 11th and 19th January, reporting the circumstances connected with the seizure of the confederate prize vessel Tuscaloosa under the joint authority of the naval commander-in-chief and yourself. I have to

instruct you to restore the Tuscaloosa to the lieutenant of the Confederate States who lately commanded her, or, if he should have left the Cape, then to retain her until she can be handed over to some person who may have authority from Captain Semmes, of the Alabama, or from the government of the Confederate States, to receive her.

You will receive a further communication from me on this subject by the next mail.

I have, &c.,

NEWCASTLE.

No. 12.

Sir F. Rogers to Mr. Hammond.

DOWNING STREET, March 11, 1864.

SIR: With reference to my letter of the 6th instant, I am directed by the Duke of Newcastle to transmit to you, for Lord Russell's information, the copy of a further dispatch which his grace has addressed to the governor of the Cape of Good Hope relative to the case of the Tuscaloosa.

I am, &c.,

FREDERICK ROGERS'

[Inclosure in No. 13.]

The Duke of Newcastle to Sir P. Wodehouse.

DOWNING STREET, March 10, 1864.

SIR: In my dispatch of the 4th instant I instructed you to restore the Tuscaloosa to the lieutenant of the Confederate States who lately commanded her, or, if he should have left the Cape, then to retain her until she could be handed over to some person having authority from Captain Semmes of the Alabama, or from the government of the Confederate States, to receive her.

I have now to explain that this decision was not founded on any general principle respecting the treatment of prizes captured by the cruisers of either belligerent, but on the peculiar circumstances of the case. The Tuscaloosa was allowed to enter the port of Cape Town and to depart, the instructions of the 4th of November not having arrived at the Cape before her departure. The captain of the Alabama was thus entitled to assume that he might equally bring her a second time into the same harbor, and it becomes unnecessary to discuss whether, on her return to the Cape, the Tuscaloosa still retained the character of a prize, or whether she had lost that character and had assumed that of an armed tender to the Alabama, and whether that new character, if properly established and admitted, would have entitled her to the same privilege of admission which might be accorded to her captor, the Alabama.

Her Majesty's government have, therefore, come to the opinion, founded on the special circumstances of this particular case, that the Tuscaloosa ought to be released, with a warning, however, to the captain of the Alabama, that the ships of war of the belligerents are not to be allowed to bring prizes into British ports, and that it rests with her Majesty's government to decide to what vessels that character belongs.

In conclusion, I desire to assure you that neither in this dispatch nor in that of the 4th November have I desired in any degree to censure you for the course you have pursued. The questions on which you have been called upon to decide are questions of difficulty, on which doubts might properly have been entertained, and I am by no means surprised that the conclusions to which you were led have not, in all instances, been those which have been adopted, on fuller consideration, by her Majesty's government.

I am, &c.,

NEWCASTLE.

APPENDIX No. XI.

CORRESPONDENCE BETWEEN MR. SEWARD AND THE BRITISH MINISTER RELATING TO THE CREW OF THE BRITISH STEAMER SUNBEAM.*

CASE OF THE BRITISH STEAMER SUNBEAM.

Mr. Stuart to Mr. Seward.

WASHINGTON, November 1, 1862.

SIR: I have the honor to transmit to you the accompanying copy of the protest of the master, mates, and engineers of the British screw-steamer Sunbeam, which was taken possession of as a prize off Wilmington on the 20th ultimo by the United States blockading vessels State of Georgia and Mystic, showing, in an apparently conclusive manner, that the Sunbeam had met with considerable damage from a hurricane which she encountered on her voyage from Halifax to Matamoras, and that she had been compelled in her distress to make for the nearest shore in search of a port of refuge, being short of both coals and water.

As the United States government has hitherto refused to restore vessels, however captured, until after adjudication by the prize court, it is not my present intention to apply to you for the restitution of the Sunbeam; but I feel obliged to call your attention to the complaints contained in the protest that the Sunbeam was unnecessarily fired into at point-blank range, by the State of Georgia, with shells, while stationary, and that, although a great portion of her stores had been lost in the hurricane, no fresh supplies were placed on board for the master and remaining members of the crew, who were brought to New York under charge of the prize crew.

I venture to request that you will have the kindness to cause an inquiry to be made into the circumstances complained of, and to inform me of the result.

I avail myself of this opportunity to renew to you the assurance of my highest consideration.

W. STUART.

Hon. WILLIAM H. SEWARD, *Sec., Sec., Sec.*

UNITED STATES OF AMERICA, STATE OF NEW YORK, ss:

By this public instrument, be it known to all to whom the same doth or may concern that I, Charles Edwards, a public notary in and for the State of New York by letters patent under the great seal of the said State, duly commissioned and sworn, and in and by the said letters patent invested "with full power and authority to attest deeds, wills, codicils, agreements, and other instruments in writing, and to administer any oath or oaths to any person or persons," do hereby certify that on the day of the date hereof, before me personally came and appeared Robert Hepburn, captain of the British steamer Sunbeam, who, heretofore, and on the seventh day of October instant, noted his protest before me, and now with him came and appear George Cant Mitchell, first mate, John Frazier, second mate, Joseph Teasdale, first engineer, and William Buchanan, second engineer of the said steamer Sunbeam, and they being by me first duly sworn on the holy evangelists of Almighty God, did depose and say: That on the 5th day of August, 1862, the said steamer Sunbeam was and cleared at Liverpool, England; that she was then up and bound for a voyage from Liverpool aforesaid to Halifax, Nova Scotia, and from thence to Matamoras, Mexico, voyage not to exceed nine months; that these appearers were part of her crew, such crew being seventeen, all told; that she set forth on that voyage with these appearers and the rest of the crew on board, and one passenger named Henry Nurse, on the morning of the sixth day of the said August, (1862,) with the cargo well and properly stowed, and that at this time the said steamer was tight, staunch, and strong; her engines and gear in good, sound, and complete order, and she was well found in fuel, and also well and sufficiently

* Transmitted with dispatch No. 483, from Mr. Seward to Mr. Adams, February 19, 1863. See vol. III, p. 120. Referred to in the following communications: Note from Earl Russell to Lord Lyons, January 28, 1863, vol. III, p. 112. Note from Earl Russell to Mr. Adams, January 24, 1863, vol. III, p. 114. Note from Earl Russell to Mr. Adams, January 24, 1863, vol. II, p. 401.

victualled and found; that when the said steamer had been out about sixteen days, and on or about the twenty-first or twenty-second day of same August, she experienced a very heavy gale of wind, whereby a considerable quantity of her coal on deck was washed overboard, and the vessel met with a succession of bad winds up to about the time she reached Halifax, which was on Friday, the 5th day of September, 1862, and there she took in thirty tons of coal and a cord and a half of wood, but did not land any of her cargo. She was consigned in Halifax to the care of Mr. De Wolf. That while so at Halifax her two tanks were filled with twelve hundred gallons of water. She took in one passenger there named Oldfield, for Matamoras. That on the seventh day of said September the said steamer Sunbeam left Halifax for Matamoras, but on the next day, and while on her way, one of the steam ports of her cylinder broke and she had to go back to Halifax, getting there about the eleventh day of said September, (Thursday,) and remained there until Monday, repairing. She then started again, with twenty-four tons of coal on board. When she had been out about nineteen hours the appearer, Chief Engineer Joseph Teasdale, notified this appearer, the master, that the vessel was burning about ten tons of coal a day, whereupon this appearer, the master, ordered that the fires burn out and sail be made on her. This had to be done because there was not coal enough to go on with. The wind was light and variable, and this continued until the eighteenth day of September; got wind from the northeast; this increased toward the evening, the steamer going about eleven knots an hour; at midnight took in the topgallant sails, gaff topsail, and mizzen; at this time the vessel was out of sight of land, but must have been in a line a little above the Chesapeake. At about two a. m. of the 19th of September, (civil time,) with barometer 29.80, there was a sudden increase of wind, accompanied by a very heavy rain. This appearer, the master, immediately called all hands on deck to shorten sail, the sea rising very high and cross. All sail furled except balance, reefed mainsail, by which the ship was laid to on the port tack. The gale increased very rapidly, barometer 28.50, with a tumbling, mountainous sea, and the ship rolling very heavily, the main deck full of water, and the sea making a clear breach over the poop, breaking the cabin lights and filling the cabin full of water—at the same time the wind was blowing a perfect hurricane—the steamer on her beam ends. The sea rolling on deck washed away the gig and every movable thing on deck, bursting the front of the stoke-hole to pieces and washing the coal out of the bunkers, at the same time going under the boilers and filling the engine-room full of water level with the boilers, (barometer 28.20.) The starboard rail of the ship was immersed about four feet under water, (barometer 28.) The long-boat was washed to leeward, and bilged in several places. Three guns broke loose, tearing the stays down which supported the side of the ship, and loosening the bolts about the deck and causing the decks to leak. Hurricane still increasing, and flying round the compass twice in one hour, the ship laboring heavily, and expecting her to go down every minute. As a last resource, this appearer, the master, kept her away with the danger of peeping her, that he might get her upright. She paid off a little; these appearers, George Cant Mitchell, first mate, and John Frazier, second mate, immediately knocked the ports out, and she cleared herself for the time of the water. At 9 a. m. the hurricane still raged fearfully, and the steamer rolled gunwale under, taking whole seas on board every time. Not a movable thing left on deck, (barometer 28.10.) At 11 a. m. it became somewhat more moderate. Set close-reefed topsails; it continued moderating until evening, when it dropped to a dead calm. All requisite sail set to steady the ship, but it was of no use, as the sea was still so high and cross. The ship still labored and strained heavily, and it was impossible to get to sound the pumps, as the sea was washing from side to side four feet over them. At midnight, the 19th of September, there was less sea, (barometer 29.30.) Pumps were sounded, pumping four hours. Found twenty-one inches in the main hold, ten feet six in the engine-room, and the store-room was full of water up to the cabin deck, spoiling all the ship's stores, (barometer 29.90.) On the morning of the next day, the 20th, less sea, with light baffling winds and heavy rains. Found the bolts which secure the stays of the sides of the ship all loose. The engines were under water and could not be worked. The engineers and firemen busy bailing the engine-room out. The crew engaged bailing the store-room out. The three guns before mentioned were hove overboard, to lighten the ship. On the next day, the 21st, there was a light breeze from the northeast, and all possible sail set. The breeze continued until the 23d. At that time, off Cape Hatteras, weather commenced to be equally, with heavy rains. Wind from west to southeast, and which continued until the 25th, when the vessel got a strong breeze from the northeast. It blew round to the northwest and continued strong and equally until the morning of the 27th, when it gradually died away. The vessel at this time had only eight tons of coal on board, and but two days' water for the ship's company, and all the provisions or chandlery stores gone or spoiled, with the exception of beef and bread; and all the stores of the engine-room had been lost, among them seventy gallons of oil, and about three-quarters of a hundred-weight of tallow. In this distress and situation the appearer, Robert Hepburn, master of the said steamer, found it advisable and absolutely necessary to bear up for some port, or get inshore and speak

some coaster. In consequence thereof, at 8 p. m. the vessel was steered west by north, and, the wind dropping to a calm, the said appearer ordered the steam up and commenced steaming inshore, sounding as she went along. At 10 p. m. on the said 27th, sounded in nine fathoms; found the chronometer to be out about thirty miles; kept the lead going until she had got into two and a half fathoms water, and which this appearer, the said master, took to be the Frying Pan Shoals; stood off northeast until the vessel got into seven fathoms water. The steamer was then kept north by west. The weather very thick, and the night dark, with rain; had been raining all night. There was no fair daylight until about seven in the morning, and even then the weather was very foggy, and objects around could not be distinctly seen; but about five hours and fifteen minutes a beacon and fort were sighted, (which proved to be Wilmington beacon and fort,) and the vessel stood directly for the shore. At the same time the report of a gun was heard. The engines were immediately stopped, helm put down, and she was moved down in the direction from which the sound of the gun came, and which proved to be a gun from the United States gunboat State of Georgia; and almost immediately at the same time a Parrott shell came over the steamer and burst to leeward, although at this time the steamer was close to the said gunboat. The said fort, which was about three-fourths of a mile off, threw shells, seemingly, at the cruiser, (gunboat,) while the said gunboat continued to shell the steamer Sunbeam, although she was washing and stationary; and when so stationary, and only about forty yards off the said gunboat, such gunboat (State of Georgia) fired a sixty-eight pound eight-inch shell at point-blank range, which burst on board the Sunbeam, cutting ropes, rigging, and chains, but, through remarkable fortune, wounding no one. The commander of the State of Georgia sent two armed boats' crews on board the Sunbeam, the officers of which ordered this appearer, Robert Hepburn, master, to go on board the State of Georgia with his papers, which he did; and when there, was asked by her commander, Armstrong, what he was doing. When this appearer answered that he was going for coal and water; was in distress, and could not go on the voyage to Matamoras without water or coal. Thereupon the said commander said that this said appearer ought to have come down to the cruisers; to which this said appearer, master, truthfully responded that he had not seen them. (They were, however, two gunboats—the said State of Georgia and the Mystic.) The commander of the State of Georgia told this appearer, master, that he should send the Sunbeam to New York, and this appearer could lay his case before his consul; and this said appearer was taken back to his vessel. The commander of the Mystic then came on board the Sunbeam and opened her hatches, and told this appearer, master, he could have gone under canvas, and also have condensed water; whereas the fact was that the condenser was out of order, and therefore would not make fresh water for the crew. On the 29th of same September, 1862, six of the crew of the Sunbeam were then taken to the State of Georgia, and have never been returned to her, nor brought into the port of New York, until yesterday, (the 14th day of October.) And these appearers further say that after the Sunbeam had thus been stayed one day, she was started with a prize crew on board for the port of New York; prior to which, the said State of Georgia put about one hundred gallons of water on board the Sunbeam, but did not put any stores on board for master, mates, engineers, and such of the crew as came on in her; although, in all kindness, it ought to have been done, for the vessel, in the hurricane aforesaid, had lost all her stores of flour, peas, sugar, coffee, and all the bread was damaged. The steward, on the voyage to New York, managed to pick out a little uninjured flour from the inside of barrels, although all the outside of the flour was black; a little cabin bread was found in one of the state-rooms, but it was all moldy. And on the last day, in coming to New York, they were all reduced to a piece of salt beef and biscuit. And these appearers, Joseph Teasdale and William Buchanan, first and second engineers, say that on Wednesday night, the 1st of October, when the said steamer was coming on to the port of New York, and when in bed, about ten at night, the first master's mate of the prize crew came down and asked this appearer, Teasdale, if he would go and unship the propeller, as they could not get it unshipped, (so as to go under canvas,) and both of these appearers did so; and next morning the chief engineer of the prize crew came for these said two appearers to see whether they would go and assist to lower the propeller, (so that they might steam again,) they, the prize crew, having been about an hour upon and not able to do it. This these said appearers did. And this appearer, the said Joseph Teasdale, further says that on the 1st of October, and while the steamer was so being brought on to New York, a passenger had expressed to the prize master his anxiety to have the fires put out, and such prize master came and asked this appearer (Teasdale) if he would go and give his engineer advice, as the boilers were salted, and they could not get steam. And this appearer went, looked into the furnaces, and found one of them burnt, which must have been caused by the boiler being short of water during the time that it was in charge of the prize crew. And this appearer reported that he had better blow off immediately if he wished to save the ship and lives on board; for it was not certain, one moment from another, but that the boilers would explode. The prize master asked this appearer to

go to his engineer with an order to that effect, which he did, and this was done. After the boilers had been blown off, this said appearer assisted in taking the man-hole doors off; it had to be done under this appearer's advice; and the boilers were pumped up with cold water to cool them down, and then it was run off again empty, and this appearer went in and examined the boilers, and found the furnace crown had dropped down; and went into the furnace and examined it, and found the furnace plate on the starboard sides cracked in two places, and the plate on the port sides cracked, in one place open about three-eighths of an inch; and this appearer told the said engineer (belonging to the prize crew) that it was not safe to raise steam any more in that boiler, and lighted a fire in the port boiler, but found it would not supply the engine with steam. The consequence of all this damage, which took place while the Sunbeam was in the hands of the prize crew, was that she had to sail all the rest of the way to New York. The furnaces were new in Liverpool, and had sustained no injury up to the time of the vessel's capture.

The steamer Sunbeam arrived in New York and came to anchor near the Brooklyn navy yard at about half-past nine o'clock a. m. of the 4th day of October, 1862; and all these appearers were kept on board until half-past five p. m. of that day without anything to eat, and then taken to the house of detention in the city of New York. This appearer, the master, first mate, and two passengers, were allowed to come out on the 6th of October, and they were examined on interrogatories, and their answers written down by a prize commissioner; but they were not allowed to see the British consul, nor to go for counsel. These appearers, the first and second engineers, got out of the said house of detention on the 8th of October, and then examined in the same way. These appearers, the second mate and fireman, got out on the 9th of October, and were then likewise examined, while two others of the crew were discharged on the 11th of same October, and then also examined and finally discharged.

And this appearer (Robert Hepburn, master) says he never was in any American port save when he was on the voyage wherein he was seized as aforesaid, while this appearer (George Cant Mitchell, first mate) says he has never been in the United States before.

And this appearer (Joseph Teasdale, first engineer) further says, that on the Saturday on arriving in the port of New York, and while the said steamer Sunbeam was at anchor, she was found to be making water, and he was asked by the prize master's mate to find out the reason, which he did, ascertaining it to be caused by one of the sea casks being left open; and this must have occurred while the vessel was in charge of the prize crew. And this appearer went down and shut it; and if this had not been done as soon as it was, the ship would in all probability have foundered.

Wherefore the said Robert Hepburn, master, has requested me to protest, and I, the said notary, at such his request, have protested, and by these presents do publicly and solemnly protest, against all and every government officer, official agent, acting on behalf of the United States of America, and all and every person and persons whom it doth or may concern, and against all and singular the wrongs, hostile conduct, imprisonment, and circumstances already set forth in the foregoing declaration on oath, for all manner of losses, costs, damages, reprisal, demurrage, charges, expenses, and injuries whatsoever, which the said steamer Sunbeam, her tackle, apparel, and furniture or cargo, and the freight by her earned, or to be earned, or either or any of them, or any part thereof, have already sustained, or may hereafter sustain, by reason or means of the foregoing premises.

Whereof an attestation being required, I have granted this under my notarial form and seal.

Done in the city of New York, in the said State of New York, the fifteenth day of October, in the year of our Lord one thousand eight hundred and sixty-two.

In premissorem fidem.

CHARLES EDWARDS.

ROBERT HEPBURN.
 GEORGE C. MITCHELL.
 his
 JOHN + FRAZER.
 mark.
 JOSEPH TEASDALE.
 WILLIAM BUCHANAN.

Mr. Seward to Mr. Stuart.

DEPARTMENT OF STATE,
 Washington, November 3, 1862.

SIR: I have the honor to acknowledge the receipt of your note of the 1st instant, with accompanying protest relative to the capture of the British steamer Sunbeam by United States blockading vessels off Wilmington, North Carolina, and to inform you,

in reply, that the Secretary of the Navy has been requested to make an inquiry into the alleged acts of malfesance and neglect on the part of the capturing vessels.

I have the honor to be, sir, your very obedient servant,

WILLIAM H. SEWARD.

Hon. WILLIAM STUART, *fec., fec., fec.*

Mr. Stuart to Mr. Seward.

WASHINGTON, November 9, 1862.

SIR: With reference to the note which I had the honor to address to you on the 1st instant, and to your answer of the 3d instant relative to the capture of the British steamer *Sunbeam*, I have now the honor to inclose a copy of a further protest relating to that capture, and to call your attention to that part of it which states that efforts were made by the master and executive officer of the United States cruiser *State of Georgia* to induce the six persons belonging to the crew of the *Sunbeam*, whose names are attached to the protest, to enlist in the naval or military service of the United States.

I trust that you will be so good as to cause instructions to be issued to prevent the exercise of any similar pressure in future upon British subjects who may be found on board vessels captured for any alleged intention to violate the blockade.

I avail myself of this opportunity to renew to you the assurance of my highest consideration

W. STUART.

Hon. WILLIAM H. SEWARD, *fec., fec., fec.*

UNITED STATES OF AMERICA, STATE OF NEW YORK, ss :

By this public instrument be it known to all to whom the same doth or may concern, that I, Charles Edwards, a public notary in and for the State of New York, by letters patent under the great seal of the said State, duly commissioned and sworn, and in and by the said letters patent invested "with full power and authority to attest deeds, wills, codicils, agreements, and other instruments in writing, and to administer any oath or oaths to any person or persons," do hereby certify that on the day of the date hereof, before me personally came and appeared John Kidd, William Caldwell, George Gregg, John McClelland, James Fraser, and Francis Patten, forming part of the crew of the British steamer *Sunbeam*, and they being by me duly sworn on the Holy Evangelists of Almighty God, did depose and say: that these appearers, George Gregg, John McClelland, James Fraser, and Francis Patten, were seamen, and these appearers, John Kidd and William Caldwell, were firemen on board the *Sunbeam*, bound from Liverpool to Matamoras; that they shipped at Liverpool for the voyage to Halifax, and thence to Matamoras; that on the morning of the 19th day of September last (1862) the said steamer encountered a furious hurricane, which swept the decks fore and aft, filled the engine-room with water on a level with the deck, washed the boats overboard, with the exception of the long-boat, which was torn from the main hatch and stove in several places, filled the cabins and store-room with water, and destroyed the ship's provisions; and expecting every moment that the steamer would go down—the ship lying on her beam ends, and refusing to right herself—the coal was washed out of the bunkers, and only three inches of fresh water in the tanks. These appearers, as portions of the crew, requested the captain (Hepburn) to make for the nearest land, being in fear of loss of life. The said master consented to this, and bore up for the nearest land, hoping to speak some ship or coaster and obtain relief; that on the 27th day of the said September, the wind being so light and variable that the vessel had made but little way, and having but about twelve hours' coal in the bunkers, and believing that the steamer *Sunbeam* was about seventy miles from the nearest land, her master ordered all steam to be made and stood right in shore. At 10 p. m. found the water shoaling rapidly from nine to two and a half fathoms, and the vessel laid off until daylight, and at break of day on the morning of the 28th of September, when going under easy steam, not more than four knots an hour, the vessel found herself near the shore and under the guns of two American cruisers, who fired four shots at the *Sunbeam* and boarded her, claiming her as a prize. All these appearers were severed from the rest of the crew by being taken on board the United States cruiser *State of Georgia*, (being one of the two cruisers before referred to,) while the *Sunbeam* was sent on with a prize crew to New York. These appearers were all continued to be detained on board the *State of Georgia* until she reached the city of Washington, which she did on the 11th day of October instant, (1862,) when all these appearers were cast on shore at Washington, penniless and friend-

less. The crew of the State of Georgia, seeing and pitying the position of these appearers, subscribed among themselves, and handed to these appearers a small sum of money, for which they felt deeply grateful; and with this, and by selling the best part of their few effects, these appearers managed to raise sufficient to carry them to New York, so that they might join the rest of the crew, there carried in with the Sunbeam; that on their arrival in New York these appearers went to the British consul, who sent them to a boarding-house. These appearers desire to say that while they were on board the State of Georgia they were treated by her crew with every kindness; but when put ashore on the Saturday night, the 11th of October instant, at 6 p. m., not knowing where to turn, every inducement was held out by Acting Master and Executive Officer Rogers, of the said State of Georgia, to induce these appearers to join the American navy, or the military forces, but which they, as British subjects, strenuously opposed, preferring to take the protection of the British flag and suffer any privation rather than do so; that under the circumstances before mentioned, these appearers have been obliged to sacrifice and dispose of the best part of their personal effects, and are thrown upon the streets of New York friendless and destitute.

And these appearers protest against such harsh conduct, and respectfully claim all reasonable compensation and satisfaction therefor.

Wherefore I, the said notary, at the request of the said appearers, do protest against all and every wrong and grievance aforesaid suffered by them, and claim for them all and every restitution, compensation, damages, and wages on account thereof. Whereof an attestation being required, I have granted this under my notarial firm and seal.

Done in the city of New York, in the said State of New York, the seventeenth day of October, in the year of our Lord one thousand eight hundred and sixty-two.

In præmissorem fidem.

CHARLES EDWARDS.

JOHN KIDD.

WILLIAM CALDWELL.

his
GEORGE + GREGG.
mark.

his
JOHN + McCLELLAND.
mark.

JAMES FRASER.

his
FRANCIS + PATTEN.
mark.

Mr. Seward to Mr. Stuart.

DEPARTMENT OF STATE,
Washington, November 12, 1862.

SIR: I have the honor to acknowledge the receipt of your note of the 9th instant, which relates to the case of certain seamen captured on board of the British steamer the Sunbeam in her attempt to violate the blockade.

Those seamen, in the protest which accompanies your note, say that while they were in this city friendless and penniless, every inducement was held out to them by Acting Master and Executive Officer Rogers, of the United States cruiser Georgia, to join the American navy or the military forces of the United States, which inducements they strenuously opposed, preferring rather protection and, if unavoidable, privations under the British flag.

Upon this statement you request me to cause instructions to be issued to prevent the exercise of any similar pressure upon British subjects who may be captured for any alleged intention to violate the blockade.

Having taken the President's directions upon the subject, I have now to reply that the case, as presented by the seamen, does not seem to me to warrant the complaint that a pressure of any kind was made upon the seamen of the Sunbeam. The term "every inducement" is, indeed, very vague. But it certainly does not comprehend duress, force, menace, intimidation, bribery, falsehood, or even deceitful representations.

The seamen are understood to have been free men, without occupation except the unlawful and forbidden one which had just then failed them. They were needy, and it seems to me that they could well have complained of severity and hardships if, being disposed, they had been refused permission to enter into the service of the United States.

I avail myself of this opportunity to renew to you, sir, the assurance of my high consideration.

WILLIAM H. SEWARD.

Hon. WILLIAM STUART, &c., &c., &c.

Mr. Seward to Lord Lyons.

DEPARTMENT OF STATE,

Washington, November 26, 1862.

MY LORD: Adverting to Mr. Stuart's note to this department of the 1st instant relative to the capture of the British steamer *Sunbeam* by the United States blockading vessels *State of Georgia* and *Mystic*, off Wilmington, North Carolina, and to my reply, I have the honor to inclose herewith the copy of a communication of yesterday from the Secretary of the Navy, on the subject.

I avail myself of this opportunity to renew to your lordship the assurance of my high consideration.

WILLIAM H. SEWARD.

Right Hon. LORD LYONS, &c., &c., &c.

Mr. Welles to Mr. Seward.

NAVY DEPARTMENT, *November 25, 1862.*

SIR: I had the honor to receive your letter of the 3d instant, inclosing one, with accompanying papers, addressed to you by Mr. Stuart, her Britannic Majesty's chargé d'affaires, in reference to the capture of the steamer *Sunbeam*, and called upon Commander Armstrong for an explanation in the case. Copies of his report, dated the 15th instant, and accompanying statements, are herewith transmitted.

I am, respectfully, your obedient servant,

GIDEON WELLES,
Secretary of the Navy.

Hon. WILLIAM H. SEWARD,
Secretary of State.

Commander Armstrong to Mr. Welles.

UNITED STATES STEAMER *STATE OF GEORGIA*,
Washington Navy Yard, November 13, 1862.

SIR: Your communication of November 13 has been received. In reply, I have the honor to state that "the complaints contained in the protest, that the *Sunbeam* was unnecessarily fired into at point-blank range by the *State of Georgia* with shells while stationary, and that, although a great portion of her stores had been lost in the hurricane, no fresh supplies were placed on board for the master and remaining members of the crew, who were brought to New York under the charge of the prize crew," are not founded in fact.

The *Sunbeam* was captured by this ship, the *Mystic* being in company, on the morning of the 28th of September last, while endeavoring to run the blockade.

The inclosed extract from the log-book of this ship shows that the *Sunbeam* did not stop when a leeward gun was fired, but kept on until a shell was fired over her, and that even after she had rounded to she backed in toward the fort, until a shell fired astern of her caused her to stop. Those were the only three guns fired.

I inclose copies of an order given on the 28th of September to examine the *Sunbeam*, and the report of the officers ordered on this duty. This report and the certificate of Acting Master Folsom show there was no want of stores for the whole number of persons sent in her to New York.

I am informed that no examination has been had of the prize officers sent in charge of the *Sunbeam*; I have no doubt their evidence will fully disprove the statement contained in the protest referred to.

Sir, I have the honor to be, very respectfully, your obedient servant,

JAS. F. ARMSTRONG.
Commander, Commanding.

Hon. GIDEON WELLES,
Secretary of the Navy, Washington, D. C.

Mr. Folsom to Commander Armstrong.

WASHINGTON NAVY YARD, *November 15, 1862.*

SIR: In answer to your question as to the sufficiencies of supplies and stores on board the *Sunbeam*, I have the honor to state that on her arrival in New York there was

sufficient to have enabled her to keep the sea for at least one week longer. Supplies were furnished the Sunbeam for twenty-two men for ten days, and I was four days and a half in making the passage.

Very respectfully, your obedient servant,

CHARLES FOLSOM,
Acting Master.

Commander JAMES F. ARMSTRONG,
Commanding U. S. Steamer State of Georgia, Washington, D. C.

Commander Armstrong to Lieutenant Commander Arnold et al.

UNITED STATES STEAMER STATE OF GEORGIA,
Off New Inlet, N. C., September 28, 1862.

GENTLEMEN: Proceed on board the steamer Sunbeam and make an examination of her hull, engine, and general condition. You will furnish me with a report in writing of the circumstances attending her running the blockade.

Very respectfully,

JAMES F. ARMSTRONG,
Commander, Commanding.

Lieutenant Commander H. N. T. ARNOLD,
Commanding United States Steamer Mystic.
Acting Master CHARLES FOLSOM,
United States Steamer State of Georgia.
Acting Third Assistant Engineer JACOB D. RODGERS,
United States Steamer State of Georgia.

Lieutenant Commander Arnold et al. to Commander Armstrong.

UNITED STATES STEAMER STATE OF GEORGIA,
Off New Inlet, N. C., September 28, 1862.

SIR: In obedience to your order of this date, we have visited the English steamer Sunbeam and made a careful examination of her. So far as we can ascertain, there is nothing in her condition which rendered it necessary to approach this port. She is well found in every particular, so far as masts, sails, rigging, water, and provisions are concerned, and, being a sailing vessel with a screw auxiliary, we can see no reason for her being in this locality. She was captured under the guns of Fort Fisher while endeavoring to run the blockade.

Very respectfully, your obedient servants,

H. N. T. ARNOLD,
Lieutenant Commander.
CHARLES FOLSOM,
Acting Master.
JACOB D. RODGERS,
Acting 3d Assistant Engineer.

Commander JAMES F. ARMSTRONG,
Commanding United States Steamer State of Georgia.

[Extract from log, September 28, 1862, 4 to 8.]

UNITED STATES STEAMER STATE OF GEORGIA,
Off New Inlet, Cape Fear River, September 28, 1862.

At 5.45 seen a sail to the southwest; hove up anchor, and at 5.55 started ahead and ran in toward the channel; made signal to Mystic 503; discovered the strange sail was a steamer; made signal to Mystic 1106; called all hands. At 6.10 beat to quarters and fired a gun to leeward. Steamer flying English colors; a long, low steamer, bark-rigged, with boats. Made signal No. 5 to the Mystic. Steamer not stopping, fired a shell from our pivot gun over her, which caused her to round to, the fort firing at us. At 6.28 strange steamer backing rapidly toward the fort inshore; fired a shell astern of her, when she stopped. At 6.30 armed first and second cutters and boarded the chase, Fort Fisher still firing upon us; several shells passing over the ships. Stood

out, followed by the Mystic and strange steamer. At 7.50 anchored, fort bearing west by north half north; Baldhead light-house southwest by west three-fourths west; south point of Smith's Island southwest half south, in $9\frac{1}{2}$ fathoms water, and veered to 30 fathoms chain.

I certify that the above is a true copy of the remarks for the watch from 4 to 8 on the log-book of this ship.

A. D. LITTLEFIELD,
Acting Master.

Lord Lyons to Mr. Seward.

WASHINGTON, February 17, 1863.

SIR: Her Majesty's government have had under their consideration the note dated the 12th of November last, which you did Mr. Stuart the honor to address to him in the case of the Sunbeam.

In that note you observe that the statements of the seamen of the Sunbeam do not seem to you warrant the complaint that a pressure of any kind was made upon them; and you then (as it appears to her Majesty's government) take up, in substance, the position that, provided no violence be used, it is perfectly competent to the United States government to induce her Majesty's subjects to act as belligerents, contrary to the law of Great Britain, and in direct opposition to the principles of international law contended for by the United States minister at her Majesty's court in the case of the Alabama.

I am directed to state to you that her Majesty's government regret your declaration, and regard it as being inconsistent with the obligations of a belligerent toward a neutral, and as being calculated to embarrass her Majesty's government in their endeavors to observe a strict neutrality in the present war.

I have the honor to be, with the highest consideration, sir, your most obedient, humble servant,

LYONS.

HON. WILLIAM H. SEWARD, *&c., &c., &c.*

Mr. Seward to Lord Lyons.

DEPARTMENT OF STATE,
Washington, February 19, 1863.

MY LORD: I have to acknowledge the receipt of your lordship's note of the 17th, which is a reply to the communication that I had the honor to address to you on the 12th of November last upon the subject of the statements of the seamen of the Sunbeam.

On re-examining the decision of this government, which was announced on that occasion, with a sincere wish to conform it, if possible, to the desires of her Britannic Majesty's government, I have been unable to discover that it was erroneous in view of all the facts and circumstances belonging to the case as it was then stated. But it would be doing injustice to this government were I not to advise you that it does not acquiesce in the construction which is given to my former communication in the following portion of your note, namely: "You then, as it appears to her Majesty's government, take up, in substance, the position that, provided no violence be used, it is perfectly competent to the United States government to induce her Majesty's subjects to act as belligerents, contrary to the laws of Great Britain, and in direct opposition to the principle of international law contended for by the United States minister at her Majesty's court in the case of the Alabama." I cannot doubt that Earl Russell, if he shall think the matter of sufficient importance to recur to the correspondence, will discover that my former note has been unintentionally misconceived by him in this particular.

I avail myself of this opportunity to renew to your lordship the assurance of my high consideration.

WILLIAM H. SEWARD.

Right Hon. LORD LYONS, *&c., &c., &c.*

Lord Lyons to Mr. Seward.

WASHINGTON, *April 22, 1863.*

SIR: I did not fail to communicate to her Majesty's government the note which you did me the honor to address to me on the 19th of February last respecting the inducements held out to the seamen of the captured vessel *Sunbeam* to enter the service of the United States. Her Majesty's government have carefully considered the contents of that note, but they are unable to alter the opinion which they expressed with regard to your note to Mr. Stuart of the 12th November last, and which was conveyed to you, by their order, in my note of the 17th February last.

I have the honor to be, with the highest consideration, sir, your most obedient, humble servant,

LYONS.

Hon. WILLIAM H. SEWARD, *Sec., Sec., Sec.*

APPENDIX No. XII.

LETTERS OF HISTORICUS RELATIVE TO THE ALABAMA CORRESPONDENCE, AND A LETTER OF "C" ON THE AMERICAN BLOCKADE AND BELLIGERENT RIGHTS.*

LETTERS OF "HISTORICUS."

[From the London Times of October 18, 1865.]

THE ALABAMA CORRESPONDENCE.

To the Editor of the Times:

SIR: The careful and elaborate discussion contained in the dispatches of Lord Russell and Mr. Adams may be said to have exhausted the substantial merits of the question. I shall, however, ask your leave to offer a few observations on the replication of Mr. Adams to the plea recorded by Lord Russell on behalf of English neutrality.

I have frequently, on former occasions, in your columns expressed my unfeigned surprise that it was thought possible to find occasion of grave complaint in the act of the recognition of the belligerent rights of the southern confederacy. That surprise is certainly not diminished by the arguments to which Mr. Adams is fain to have recourse in support of that complaint.

The American minister seeks to avoid the stringency of the conclusion derived from the proclamation of blockade of April 19, 1861, by alleging that it was, in fact, nothing more than a "declaration of intention," an "assumption of certain acts contemplated but not performed." Even if this were a correct statement of the fact, it would surely be a singular argument that when a man menaces you with an attack you are not to place yourself in an attitude of defense until the attack has been actually carried into effect. Thus, for instance, a man sends me a formal notice to say that he means to knock me down the next day; if I send for a policeman at once am I to be told that my conduct is "precipitate and unprecedented" because I acted upon a "mere presumption of what was going to be done;" that "there was at the time no certainty that the declaration of intention would be fulfilled," and that it was "the part of calm statesmanship to postpone acting, at least until something shall have been done to require it," i. e., that I am to be knocked down first before I am justified in calling in the police? And though, as a fact, I am knocked down long before the police arrive, am I to be told that this is my own fault, because, if I had not called in the police, "it is not beyond the possibility of belief" that I should never have been knocked down at all? It is surely not necessary to confute such a line of argument as this. Is it to be contended that, when a government of one country threatens so serious an injury to the interests of another as that involved in the American blockade, the government of Great Britain was not bound, as well as justified, in taking without delay those precautions which were essential to the defense of those interests which, if the threat were carried into execution, would be so seriously imperiled?

Mr. Adams says we ought not to have assumed that the proclamation of blockade would have been carried into effect. He argues that "it is not beyond the possibility of belief" that the proclamation of blockade would have been left incomplete but for the English declaration of neutrality, "which precluded all chance of avoiding to have recourse to it." In advancing such an argument Mr. Adams seems to have forgotten his accustomed caution. The truth is that the blockade was made effective a week before the 6th of May, the day on which the English government gave the first intimation of their intention to recognize the belligerent rights of the confederacy. The proclamation of blockade was dated the 19th of April. Mr. Adams complains that the English government assumed that it would be immediately carried into effect. Were they wrong in that assumption? On the 30th of April the American admiral issued a notice declaring that the blockade had been made and was effective. This notice led to a correspondence between Mr. Seward and the ministers at Washington represent-

* Transmitted with dispatch No. 1067, from Mr. Adams to Mr. Seward, October 19, 1865. See vol. 3, p. 560.

ing the various European governments. On the 2d of May Mr. Seward wrote to the Spanish minister:

"In acknowledging the receipt of your note of the 30th ultimo, on the subject of the blockade of the ports in several of the States, I deem it proper to state, for your further information—

"1. That the blockade will be strictly enforced upon the principles recognized by the law of nations.

"2. That armed vessels of *neutral States* will have the right to enter and depart from the interdicted ports."

Thus, on the 2d of May, four days before the English government had begun to speak of "belligerent rights," Mr. Seward had already designated the nations of Europe as "neutral states." It is right and natural, it seems, for Mr. Seward, on the 2d of May, to talk of "neutral states," but for Lord Russell, on the 6th of May, to speak of belligerent rights was "precipitate and unprecedented." On the 9th of May Mr. Seward writes to Lord Lyons, "Having submitted the matter to the Secretary of the Navy, I have now the honor to inclose you a copy of that officer's reply, from which it will be seen that *there are yet five or six days for neutrals to leave.*" An English vessel was captured and condemned by the American courts for loading an outward cargo on the 13th and 14th of May in one of the blockaded ports. And yet Mr. Adams asks us to believe that but for the English declaration of neutrality, which was first announced on the 6th of May, and finally issued on the 13th of May, no measures would have been taken in America to enforce the blockade. The blockade, as we have seen, was in full and active operation in the second week in May. The news even of the intention of the English government to recognize the belligerent rights of the South could not by any possibility have been known in America till the third week in that month. And yet we are gravely told that "the actual blockade, so far from being a cause, became actually an inevitable consequence of English policy." What is this but to reproduce the ancient fable, in which the wolf complains of the lamb, which stood below him in the stream, for fouling the springs of which he drank?

But the real truth is, this argument for the incompleteness of the blockade is not only an anachronism, but a fallacy. Mr. Bemis and other writers in America have labored hard to prove that when the English government determined to recognize the belligerent rights of the South they did not know of the blockade. As a fact their contention is untrue, for the proclamation of blockade was known in England on the 2d of May, and was expressly referred to by Lord Russell, as one of the elements governing the decision of the English government, in his speech of the 6th of May. The dates consequently show that the American proclamation of blockade might be and was one of the causes of the English proclamation of neutrality, but that the English proclamation could by no possibility have been a cause of the American blockade, which was in actual operation before the declaration of the English government was made in England, and consequently long before it could be known in America.

But it is idle to prolong such a discussion. Plain as the facts and dates are against the American view, their contention would have been equally unsustainable had they been exactly the other way. American writers on this subject seem to reason as if the blockade made the war, whereas, in truth, it was the war which made and justified the blockade. A proclamation of blockade assumes the pre-existence of a state of warfare, which alone justifies such a proceeding. The recognition of belligerent rights depends on the question of the existence of a state of belligerency. Belligerency is a fact the existence of which is to be gathered from observation of the circumstances of the case. It may be difficult precisely to define the limits at which insurrection passes into civil war. The decision of such a question belongs to the province of statesmanship. On the 6th of May, the English government came to the conclusion that the state of things in America was one of civil war. When the propriety of that decision of the English government is challenged by the American government, the answer is conclusive: "You yourselves arrived at the selfsame conclusion on the 19th of April, and the proof that you did so is that you issued a proclamation of blockade." No one who understands the real conditions of this question will fail to see that in this point of view the argument is equally complete whether the blockade was known at the time to the English government, or even whether it was ever enforced at all. If I arrest a man because, from the surrounding circumstances of the case, I think he is guilty of a crime, and if subsequently, when my conduct is questioned, it comes to my knowledge that he has confessed his guilt, I may rely on that admission as a proof that my conduct was justifiable, even though I did not know of the admission. The proclamation of blockade was a recorded admission on the part of the American government that in their judgment on the 19th of April, 1861, a state of belligerency existed. The whole source of the fallacies which run through the American reasonings on this question lies in their confounding two wholly different things—the fact of the existence of the war and the evidence of that fact. And yet the masterly judgment of the Supreme Court, cited by Lord Russell in his last dispatch, might have sufficiently guarded them from such an error. The judgment states that "the proclamation of blockade is itself official and

conclusive evidence that a state of war existed which demanded and authorized a recourse to such a measure under the circumstances of the case." The state of war, therefore, preceded the blockade, and it was this state of war (of which the blockade was only an admission) which justified and made necessary the English recognition of belligerent rights; for the Supreme Court, after laying down that a state of war existed before the 19th of April, proceeds to affirm that "neutral states are bound to recognize the rights of belligerents engaged in actual war."

Mr. Adams objects to Lord Russell's reference to the magnitude of the insurrection as constituting one of the elements in the determination to accord to them belligerent rights; yet what other test can be applied? The difference between insurrection and civil war is, after all, one of degree. It is the test to which the Supreme Court itself appeals.

These are the words of a judgment pronounced, let it be remembered, by the northern majority of the court: "This greatest of civil wars was not gradually developed by popular commotion, tumultuous assemblies, or local, unorganized insurrection." If it had been, it might have been proper to wait and see whether it was about to ripen into war. But in this case there was neither necessity nor justification for waiting. "For," continues the same judgment, "however long may have been its previous conception, it nevertheless sprang forth from the parent brain a Minerva in the full panoply of war."

The birth of Minerva (to whom the Supreme Court happily compares the confederacy) was, no doubt, both "precipitate and unprecedented," and her reception both by Jupiter and the rest of Olympus was agreeable to her origin. She was "presented" at once as a full-grown goddess, and it is somewhat unreasonable to complain that she was not, like ordinary illegitimate infants in arms, put out to nurse for a season.

It is difficult, indeed, to regard this question seriously, so entirely unfounded and untenable does it appear to the mind of every jurist and every man of common sense. Nevertheless, I believe that Mr. Adams is strictly accurate when he says that—

"I have dwelt at some length upon this original point of difference between the two countries, because it has ever appeared to me the fruitful parent of all subsequent difficulties, the nurse of a very large share of ill feeling which I cannot deny now to prevail among my countrymen."

I must urge the same excuse for returning at such length to a discussion which in Europe is justly considered to have been long ago exhausted. But labor is not ill spent in exposing, again and again, errors which, however obvious, are pertinaciously reproduced, and experience unhappily shows that those resentments are not seldom the most bitterly cherished in proportion as they are wholly unfounded.

This letter has grown to such length that I shall have to ask your indulgence on another occasion for some remarks on the later portion of Mr. Adams's dispatch.

Your obedient servant,

HISTORICUS.

TEMPLE, October 16.

[From the London Times of October 19, 1865.]

THE ALABAMA CORRESPONDENCE.

To the Editor of the Times:

SIR: I do not propose to return at any length upon the question of the "precipitate" recognition of belligerent rights. There are, however, one or two matters of fact which have been misconceived in America, and which, as I have omitted to notice them, it may be well to set right.

It has been urged by American writers, and I see the charge is reiterated in England, that the argument derived from the American blockade was an after-thought, and that, whatever may be its logical validity, it did not, in fact, influence the action of the English government in their policy at the date of the proclamation of neutrality. The allegation, if it were true, would be immaterial, but in point of fact it is unfounded. Let us observe what actually occurred. The first date at which this matter came under public discussion was May 2, 1861. The question of the effect of the hostilities in America upon English trade and English shipping was naturally and appropriately brought forward in the House of Commons by the member for Liverpool. The following report of what took place on May 2 is from the Times of May 3:

"Mr. Ewart asked the secretary of state for foreign affairs whether, seeing the possibility of privateering being permitted and encouraged by the southern confederation of the States of America, her Majesty's government had placed a sufficient naval force, or intended to increase it, in the Gulf of Mexico, with a view to protect British shipping and British property on board American ships; and if privateers sailing under the flag of an unrecognized power could be dealt with as pirates.

"Lord J. Russell said: In answer to the first part of the question of the honorable gentleman, I beg to say that her Majesty's government has directed that a naval force for the protection of British shipping should be sent to the coast of America. As to the latter part of the question, I will state to the house that the government has from day to day received the most lamentable accounts of the progress of the war in the States of America. Her Majesty's government heard the other day that the confederated States have issued letters of marque, and *to-day we have heard that it is intended there shall be a blockade of all the ports of the southern States.* As to the general provisions of the law of nations on these questions, some of the points are so new, as well as so important, that they have been referred to the law officers of the Crown for their opinion, in order to guide the government in its instructions, both to the English minister in America and the commander of the naval squadron. Her Majesty's government have felt that it was its duty to use every possible means to avoid taking any part in the lamentable contest now raging in the American States, and *nothing but the imperative duty of watching British interests, in case we should be attacked, justifies our interfering.* We have not been involved in that contest by any act of giving advice in the matter, and, for God's sake, let us, if possible, keep out of it."

Is this the language of a government which was inspired by a malignant satisfaction in the misfortunes of its neighbors, or actuated by a sinister desire to take advantage of its troubles? This conversation seems to me to establish conclusively—

1. That at that date the English government had not finally resolved on the course they were about to pursue.

2. That they were determined to be advised as to that course by the judgment of persons versed in the law of nations.

3. That the blockade instituted by the United States, and the admission therein involved on the part of the United States that an actual state of war existed, had then come to the knowledge of the English government and formed a material element in their consideration of the course to be adopted.

4. That they were determined to act in a spirit of strict neutrality and to avoid taking part with either side.

5. That the pressing necessities of the case made it urgent that immediate instructions should be given as to the attitude of the English government to the then diplomatic and naval officers abroad for the protection of their own subjects. Accordingly the advice of the law officers was taken without delay. The result of that advice was communicated to Parliament on May 6. On that day Lord J. Russell, in the House of Commons, made the following statement:

"The question has been under the consideration of the government; they have consulted the law officers of the Crown—the attorney and solicitor general and the Queen's advocate—and the government have come to the opinion that the southern confederacy of America, according to those principles which seem to them to be just principles, must be treated as belligerents."

It will be observed that there is here no detailed statement of the grounds of this decision; but in a speech delivered in the House of Lords in the course of the present year, Lord Russell (March 23, 1865) stated that the American proclamation of blockade formed an important element in the decision thus arrived at. The anti-English writers on both sides of the Atlantic have thought fit to dispute this statement, and to treat the argument derived from the blockade as a recent invention. In this, however, they are distinctly refuted by plain facts and recorded documents. In a dispatch addressed to Mr. Adams as early as August, 1861, when the topic was fresh, and the discussion in its very earliest stages, Lord Russell writes to Mr. Adams, August 28, 1861:

"Her Majesty's government, upon receiving intelligence that the President had declared by proclamation his intention to blockade nine States of the Union, and that Mr. Davis, speaking in the name of those nine States, had declared his intention to issue letters of marque and reprisal, and having also received certain information of the design of both sides to arm, *had come to the conclusion that civil war existed in America, and her Majesty had therefore proclaimed her neutrality in the approaching contest.*"

It is thus clear that the proclamation of blockade of the date of April 19, 1861, was known to the English government on May 2, when they first submitted to the law officers the question of the course to be pursued by this country. It is equally clear that that proclamation formed an element in the advice given to the government by its legal advisers on May 6, and that it was relied on from the earliest period of the controversy as a material fact clearly justifying and calling for the action of the English government in their declaration of neutrality. I hope, after this plain statement of facts, we may hear no more of the charge that the argument derived from the blockade was only an "after-thought."

There is another matter of fact which has been so persistently misrepresented in America that it is proper it should be set right. It has been asserted over and over again that the Confederate States had no cruisers afloat but such as were equipped in English ports, and that our recognition of them as belligerents not only recognized but created their naval force, such as it was. This statement is wholly without founda-

tion. The Sumter and the Nashville were native southern vessels of war which were cruising on the high seas, and visited our ports with regular commissions at a very early stage in the contest. Besides these, the confederates had a very powerful navy which defended their own ports, and which was not the less a navy because, from motives of prudence, in did not think fit to leave the shelter of its forts. Is it to be said that the Russian government was not entitled to maritime belligerent rights in the Crimean war because its fleets were shut up in Cronstadt and Sebastopol? I should like to hear the American answer to two questions:

1. If the English government had postponed the proclamation of neutrality, and in the mean time the captain of an English man-of-war had seen the Sumter or the Nashville overhauling a British merchantman on the high seas, or a northern cruiser capturing an English vessel at the mouth of Charleston harbor, what was he to have done?

2. If the English government had acted upon the assumption which Mr. Adams contends they ought to have made, viz: that the proclamation of blockade would not have been put in force, and had consequently forbore to warn the Queen's subjects, in their proclamation of neutrality, to respect the blockade, what would have become of the innocent English merchantmen which, in the usual course of trade, would have continued to ply to the blockaded ports? Would they or would they not have shared the fate of the Tropic Queen?

You justly animadvert on the absurdity of the complaint that a thing which it is not disputed must have been done at some time should have been done too soon. This sort of criticism reminds one of Mr. Fox's censure on Mr. Burke's conduct with respect to the French revolution, when he said "Burke was right, but he was right too soon." I think it would have puzzled Mr. Fox to point out the exact moment at which it would have been for the first time permissible for Mr. Burke to be right. I am disposed to believe Mr. Adams would be equally embarrassed to point out the precise period of the contest at which the proclamation of neutrality would not have been "precipitate and unprecedented." The truth is, that in matters of this magnitude those who stand afar off are in a better position to appreciate the true proportion of events than those whose vision is limited by a close proximity, or distorted by interest and passion. The calm and indifferent bystander arrives by an earlier and a sounder judgment at a knowledge of that reality which a later experience alone forces on the mind of the heated and blinded partisan. The American government, not unnaturally incredulous of the enormity of the struggle in which they were engaged, believed that the insurrection would be put down in three months by a levy of seventy-five thousand militia. The English government more accurately gauged the magnitude of the crisis, and they felt that they could not refuse to recognize that which all the world now admits to have been one of the greatest military contests in which the human race was ever engaged.

We do not taunt them with having been mistaken, nor do we plume ourselves upon having been in the right; but we do protest, in the name of justice and common sense, against being charged with unfriendly conduct because we were unable to partake in their error.

HISTORICUS.

TEMPLE, October 12.

[From the London Daily News, Thursday, October 19, 1865.]

THE AMERICAN BLOCKADE AND BELLIGERENT RIGHTS.

To the Editor of the Daily News:

SIR: Although the questions of international law, which have arisen during the course of the American civil war, have been discussed almost *ad nauseam*, still there is one point as to which there is some remaining obscurity. It is well known that there is nothing which, at the time, excited so much feeling in the American mind as the manner in which the British government recognized the southern States as belligerents, and to this hour the American government insist that the act was "precipitate and unprecedented." I confess I cannot agree with Mr. Adams that the issuing of the proclamation recognizing the South as belligerents on the 13th of May, 1861, could have been delayed. The Supreme Court at Washington held it to be "an admitted fact" that "a blockade *de facto* actually existed and was formally declared and notified by the President on the 27th and 30th of April," and the same authorities refer to the 'proclamation of neutrality' issued by "the Queen of England" as an act justifiable by the law of nations, and condemned a British vessel accordingly. It is demonstrated, therefore, that the British government were not only fully justified in recognizing the South as belligerents on the 13th of May, but had no option in the matter.

But the question which has been so warmly discussed in America is of a different nature. It is insisted that the fact of the blockade was not known in this country when the British government determined to recognize the South as belligerent, and

that the fact of the blockade did not enter into the mind of the British cabinet when the recognition of the South as belligerent was resolved upon. It is needless to observe that this matter is of no practical importance now, for the action of the British government was justified by the events which had occurred, although they may have been unknown in London. But as mere matter of history the question is important. It is singular enough that any doubt should exist as to the grounds upon which the British government acted in such a crisis. For the facts are recorded in Hansard and in the Blue Books, and it is well that they should be known and openly admitted by those who were at the time responsible. Surely it can serve no good purpose to argue a great international question as lawyers argue a technical point of pleading. Whatever the records of 1861 show to have been the motives which induced the British government to recognize the South as belligerents, let them be openly avowed.

Now it appears that on the 6th of May, 1861, Mr. Gregory put three questions to Lord John Russell, who was then foreign secretary. He asked him, "first, whether any attempt of the government of the United States to levy federal dues off foreign vessels outside the ports of North Carolina and Virginia before such vessels break bulk, will not be an infringement of international law; and if so, whether our minister at Washington has received instructions to that effect? 2d. Whether the government of the United States has been informed that a blockade of any port of the southern confederated States, unless effective, will not be recognized? 3d. The government of the United States having refused to relinquish the belligerent right of issuing letters of marque, the seven southern confederated and sovereign States having become to the United States a separate and independent and foreign power, whether her Majesty's government recognize the right of the president of the Southern Confederacy to issue letters of marque; and if so, whether our minister at Washington has been notified to that effect?" These are Mr. Gregory's questions, and it is obvious that they assume the independence of the South, and the existence of two separate governments in what were once the United States. What was Lord Russell's answer? To the first he said that the answer to the question must entirely depend on circumstances. To the second, that he had not felt it necessary to give Lord Lyons any instructions. "With respect to the honorable member's next question, as to the belligerent right of issuing letters of marque, I must, in the first place, wait for more explanation, and in the second place reserve part of the answer which I have to give. With respect to belligerent rights in the case of certain portions of a state being in insurrection, there is a precedent which seems applicable to this question in the year 1825. The British government at that time allowed the belligerent right of the provisional government of Greece, and in consequence of that allowance the Turkish government made a remonstrance." Lord Russell then went on to quote the dispatch of Mr. Canning, in which he answered this remonstrance. But throughout that answer there is not a word as to "blockade." Lord Russell then proceeded: "The government have consulted the law officers of the Crown. The attorney and solicitor general and the Queen's advocate, and the government, have come to the opinion that the *southern confederacy of America*, according to these principles, which seem to them to be just principles, must be treated as a belligerent." On the same 6th of May, Lord Russell wrote to our ambassador at Paris, saying that a civil war had broken out among "the States which lately composed the United States, and declaring that the British government cannot hesitate to admit that such confederacy is entitled to be considered as belligerent." And on the same day, the same minister wrote a dispatch to Lord Lyons, in which he speaks of the "civil war which has broken out between the several States of the late Union," and that, "for the present, at least, these States have separated into distinct confederacies." In the same dispatch he says that the "government feel that they cannot question the right of the southern States to be recognized as belligerents." These words are surely not obscure. On the 6th of May the British government had determined to recognize the South, not because a blockade had been proclaimed, but because the United States had separated into distinct confederacies, and the very terms in which the foreign secretary announced the resolution of the government to the House of Commons was a practical recognition of the southern States as belligerents—for he styled them the *southern confederacy of America*. I repeat that the blockade proclaimed in April was ample justification for the course pursued by the British government, but it seems to me that it would be falsifying history to assert that the blockade was the motive, or reason, alleged by the British government for the course which they pursued.

It may seem scarcely worth while to recall the facts which occurred in 1861. But there are English writers who have ventured to deny these patent facts; and it appears to me they are scarcely worthy of the cause they defend; for I am confident that the defense of our conduct throughout the American war needs neither that facts should be ignored, nor that they should be falsified.

APPENDIX No. XIII.

CORRESPONDENCE BETWEEN HER MAJESTY'S GOVERNMENT AND MESSRS. LAIRD BROTHERS RELATIVE TO THE IRON-CLAD RAMS.*

CORRESPONDENCE BETWEEN HER MAJESTY'S GOVERNMENT AND MESSRS. LAIRD BROTHERS; AND AN APPENDIX, CONTAINING THE CORRESPONDENCE BETWEEN OFFICERS OF HER MAJESTY'S CUSTOMS AND CAPTAIN INGLEFIELD, R. N., AND MESSRS. LAIRD BROTHERS, RESPECTING THE IRON-CLAD VESSELS BUILDING AT BIRKENHEAD.

The following letters form the entire correspondence which has passed between Messrs. Laird Brothers and her Majesty's government respecting the iron-clad vessels. The production of these letters, with other papers, was moved for in the House of Commons by Mr. Seymour Fitzgerald, M. P., on the 23d of February last, but was refused by her Majesty's government.

They are now published with the permission of Messrs. Laird Brothers.

VACHER & SONS, *Publishers.*

29 PARLIAMENT STREET, *March, 1864.*

CORRESPONDENCE BETWEEN HER MAJESTY'S GOVERNMENT AND MESSRS. LAIRD BROTHERS.

[Confidential.]

Laird Brothers to S. Price Edwards, Esq., Collector of H. M. customs, Liverpool.

BIRKENHEAD IRON WORKS,
Birkenhead, September 4, 1863.

SIR: As the many rumors afloat in respect to the two iron steam rams built by us, and now lying in our dock, have induced frequent and unusual visits of Mr. Morgan, the surveyor of customs, to our works, we are desirous of saving you any further unnecessary trouble about these vessels by giving you our promise that they shall not leave the port without your having a week's notice of our intention to deliver them over to the owners, and we shall inform the owners of this engagement on our part.

We may add that the first vessel will not be ready for a month, and the second for six or seven weeks from this date.

We are, sir, your obedient servants,

LAIRD BROTHERS.

PRICE EDWARDS, Esq.

S. Price Edwards, Esq., collector of H. M. customs, Liverpool, to Laird Brothers.

CUSTOM-HOUSE, LIVERPOOL,
September 5, 1863.

GENTLEMEN: I beg to thank you for your note of yesterday's date, wherein you kindly promise to inform me, by a week's notice, of your intention to deliver to the owners the two iron steam rams now being built by you, in order that the government may be informed of their being ready for sea.

This circumstance will, I know, be satisfactory to the board of customs.

I am, gentlemen, your obedient servant,

S. PRICE EDWARDS.

Messrs. LAIRD BROTHERS.

* Transmitted with dispatch No. 633 from Mr. Adams to Mr. Seward, March 29, 1864. See vol. 2, p. 393.

Her Majesty's Foreign Office to Laird Brothers.

FOREIGN OFFICE, September 4, 1863.

GENTLEMEN: Earl Russell has been led to understand that you have intimated that, while you were not in a position to volunteer information respecting the iron-clad vessels lately launched and now being fitted out at your yard, you would readily furnish information upon an official application in writing being made to you for it.

Under these circumstances, Lord Russell has instructed me to request you to inform him, with as little delay as possible, on whose account and with what destination these vessels have been built.

I am, gentlemen, your obedient servant,

A. H. LAYARD.

Messrs. LAIRD & Co., Birkenhead.

Laird Brothers to her Majesty's Foreign Office.

BIRKENHEAD, September 5, 1863.

SIR: We have received your letter of the 4th instant, stating that Lord Russell has instructed you to request us to inform him, with as little delay as possible, on whose account and with what destination we have built the iron-clad vessels recently launched and now in course of completion at our works.

In reply, we beg to say, that although it is not usual for shipbuilders to declare the names of parties for whom they are building vessels until the vessels are completed and the owners have taken possession, yet in this particular case, in consequence of the many rumors afloat, coupled with the repeated visits of Mr. Morgan, the surveyor of customs, to our works, we thought it right to ask permission of the parties on whose account we are building the vessels to give their names to the English government, in the event of such information being asked for officially in writing.

They at once granted us the permission we sought for.

We, therefore, beg to inform you that the firm on whose account we are building the vessels is A. Bravay & Co., and that their address is No. 6 Rue de Londres, Paris, and that our engagement is to deliver the vessels to them in the port of Liverpool when they are completed, according to our contract.

The time in which we expect to have the first vessel so completed is not less than one month from this date, and the second not less than six or seven weeks from this date.

We are, sir, your obedient servants,

LAIRD BROTHERS.

A. H. LAYARD, Esq., M. P.

Laird Brothers to S. Price Edwards, Esq., collector of H. M. customs, Liverpool.

[Confidential.]

BIRKENHEAD IRON WORKS,

Birkenhead, September 8, 1863.

SIR: Referring to our letter to you of the 4th instant, we think it right to inform you that it is our intention to take one of the iron-clads, the *El Tousson*, from our graving dock for a trial trip on Monday next, within the usual limits of such trial trips; and you may rely on our bringing the vessel into the Birkenhead float when the trial is finished, it being our intention to complete the vessel in the Birkenhead float.

This trial is necessary to test the machinery and other parts, but will not alter the time previously stated for the completion of the vessel.

We are, sir, your obedient servants,

LAIRD BROTHERS.

S. PRICE EDWARDS, Esq.

Her Majesty's Treasury to Laird Brothers.

13,132½.]

TREASURY CHAMBERS, September 9, 1863.

GENTLEMEN: I am desired by my lords commissioners of her Majesty's treasury to acquaint you that their lordships have felt it their duty to issue orders to the commissioners of customs that the two iron-clad steamers now in the course of completion in your dock at Birkenhead are not to be permitted to leave the Mersey until satisfactory evidence can be given of their destination, or at least until the inquiries which are now being prosecuted with a view to obtain such evidence shall have been brought to a conclusion.

I am, gentlemen, your obedient servant,

GEORGE A. HAMILTON.

Messrs. LAIRD & Co., Birkenhead.

S. Price Edwards, Esq., collector of her Majesty's customs, Liverpool, to Laird Brothers.

CUSTOM-HOUSE, *Liverpool, September 11, 1863.*

DEAR SIR: I am sorry to say there can be no trial trip of the iron-clad ship until Earl Russell's reply can be had. That reply may yet come in time to meet your wishes.

I am, dear sirs, yours, very truly,

S. P. EDWARDS.

Messrs. LAIRD BROTHERS.

Laird Brothers to her Majesty's Treasury.

BIRKENHEAD IRON WORKS,
Birkenhead, September 10, 1863.

SIR: We are in receipt of your letter of the 9th instant, informing us that the lords commissioners of her Majesty's treasury have issued orders to the commissioners of customs that the two iron-clad steamers now in course of construction by us are not to be permitted to leave the Mersey until satisfactory evidence can be given of their destination.

In reply, we beg to inform you that we have forwarded a copy of your letter to Messrs. A. Bravay & Co., at No. 6 Rue de Londres, Paris, on whose account we are building the vessels, and to whom we beg to refer you for further information, inasmuch as our engagement with them is to deliver the vessels at the port of Liverpool when they are completed according to our contract.

It may be useful to the lords commissioners of her Majesty's treasury to know that the time in which we expect to have the first vessel so completed is not less than one month from this date, and the second vessel not less than six or seven weeks from this date.

We are, sir, your obedient servants,

LAIRD BROTHERS.

GEORGE A. HAMILTON, Esq.

S. Price Edwards, Esq., collector of H. M. customs, Liverpool, to Laird Brothers.

LIVERPOOL, *September 14, 1863.*

DEAR SIR: You have the permission of the government to try the iron-clad ship on your guarantee to return her.

I have only this moment received the telegram.

Yours, truly,

S. PRICE EDWARDS.

Messrs. LAIRD BROTHERS.

S. Price Edwards, Esq., collector of H. M. customs, Liverpool, to Laird Brothers.

CUSTOM-HOUSE, *Liverpool, September 17, 1863.*

GENTLEMEN: With reference to the wish expressed by you, that one of the iron-clad vessels in your yard may be permitted to make a trial trip, I am directed to inform you that the lords commissioners of her Majesty's treasury will allow the trial trip to be made by the vessel referred to in your letter of the 8th instant, relying upon the honorable engagement which has been given by you that the ship shall, after the usual trial trip, be brought back again to Liverpool, and shall not leave that port without a week's notice to her Majesty's government of the intention to send her away.

I am, gentlemen, your obedient servant,

SAMUEL PRICE EDWARDS, *Collector.*

Messrs. LAIRD BROTHERS, *Birkenhead.*

Laird Brothers to S. Price Edwards, Esq., collector of H. M. customs, Liverpool.

BIRKENHEAD IRON WORKS,
Birkenhead, September 18, 1863.

SIR: We beg to acknowledge the receipt of your letter of the 17th instant, informing us that the lords commissioners of her Majesty's treasury will allow the trial trip to be made by the vessel referred to in our letter of the 8th instant, relying upon the honorable engagement which has been given by us that the ship shall, after the usual trip, be

brought back again to Liverpool, and shall not leave that port without a week's notice to her Majesty's government of the intention to send her away.

This engagement was made under the circumstances set forth in our previous correspondence, and we now beg to confirm the same; and are, sir, your obedient servants,
LAIRD BROTHERS.

SAMUEL PRICE EDWARDS, Esq.,
Collector of her Majesty's Customs, Liverpool.

Her Majesty's Treasury to Laird Brothers.

TREASURY CHAMBERS, September 19, 1863.

GENTLEMEN: On the 13th instant the lords commissioners of her Majesty's treasury directed the board of customs to inform you that their lordships would allow a trip to be made by the iron-clad vessel referred to in a letter written by you on the 8th instant, in reliance upon the honorable engagement which had been given by your firm, that the vessel should, after the usual trial trip, be brought back again to Liverpool, and should not leave that port without a week's notice to her Majesty's government of the intention to send her away.

I am now commanded by the lords commissioners of her Majesty's treasury to inform you that since that permission was given, circumstances have come to the knowledge of her Majesty's government which give rise to an apprehension that an attempt may be made to seize the vessel in question while on her trial trip.

I am to state to you explicitly that her Majesty's government are convinced that it is your intention, as far as it is in your power, to fulfill honorably the engagement into which you have entered; and that if any such attempt were made, it would be entirely without the privity of your firm, in whose good faith they place perfect confidence.

Inasmuch, however, as such an occurrence, in whatever method it may be brought about, would be contrary to the determination expressed by her Majesty's government that the iron-clad vessels should be prevented leaving the port of Liverpool until satisfactory evidence may be given as to their destination, I am to state to you that this board feel it their duty to apprise you that they cannot permit the trial trip except under provision against any forcible abduction of the vessels.

With this view authority has been given to Admiral Dacres, who is now in the Mersey with the channel fleet, to place, with the concurrence of your firm, on board the iron-clad ram about to be tried, a sufficient force of seamen and marines in her Majesty's naval service to defeat any attempt to seize her. And I am to request that you will inform their lordships whether you accept such assistance.

In the event of your refusing it, I am to inform you that the board of customs will be instructed to detain the vessel.

I am, gentlemen, your obedient servant,

H. BRAND.

Messrs. LAIRD, *Birkenhead.*

Laird Brothers to her Majesty's Treasury.

BIRKENHEAD IRON WORKS,
Birkenhead, September 20, 1863.

SIR: We have the honor to inform you that we have received your letter of the 19th instant, and have been in communication with Admiral Dacres and Mr. Edwards, collector of customs, on the subject, and will write to you to-morrow.

The trial of the iron-clad screw steam vessel is deferred.

We are, sir, your obedient servants,

LAIRD BROTHERS.

H. BRAND, Esq.

Laird Brothers to her Majesty's Treasury.

BIRKENHEAD IRON WORKS,
Birkenhead, September 21, 1863.

SIR: We have the honor to reply to your letter of the 19th instant, (received and acknowledged yesterday,) informing us that circumstances have come to the knowledge of her Majesty's government giving rise to an apprehension that an attempt may be made to seize our iron-clad steam vessel on her trial trip, and stating that authority

had been given to Admiral Dacres to place, with our concurrence, a sufficient force of seamen and marines on board her to defeat any such attempt.

We are not ourselves aware of any circumstance to induce us to entertain any such apprehension, but we beg to thank her Majesty's government for the protection thus placed at our disposal, of which we shall gladly avail ourselves.

Owing, however, to what you have brought under our notice, and the incomplete state of the vessel, and also the present crowded state of the river Mersey, it will be desirable to defer the trial trip for some days; and, in the mean time, we trust that her Majesty's government will be able to obtain further information as to any project that may exist to deprive us of our property.

We propose to communicate the substance of your letter to Messrs. A. Bravay & Co., of Paris.

We are, &c.,

LAIRD BROTHERS.

HON. H. BRAND.

Her Majesty's Treasury to Laird Brothers.

TREASURY CHAMBERS, October 7, 1863.

GENTLEMEN: Referring to your ready acceptance of the offer of her Majesty's government to prevent any attempt at the forcible abduction of your property, the iron-clad vessel now nearly completed at Birkenhead, and understanding that the trial trip, which has been the subject of former correspondence, has been abandoned, I am directed by the lords commissioners of her Majesty's treasury to acquaint you that, from information which has been received, it has become necessary to take additional means for preventing any such attempt.

Their lordships have, therefore, given instructions that a custom-house officer should be placed on board that vessel, with full authority to seize her on behalf of the Crown, in the event of any attempt being made to remove her from the float or dock where she is at present, unless under further directions from their lordships; and likewise to obtain from the officer in command of her Majesty's steamship *Majestic* any protection which may become necessary to support him in the execution of this duty.

My lords request you to understand that these precautions are taken, not from any distrust of your intention to fulfill your engagement of giving a week's notice before the removal of the vessel, nor with the view of interfering in any way with your workmen in the completion of her, but exclusively for the purpose of preventing an attempt which may be made by other parties to nullify your engagement.

Their lordships have directed Mr. Stewart, the assistant collector of customs at Liverpool, to communicate with you, and they doubt not that these precautions will meet with your concurrence.

I am, gentlemen, your obedient servant,

GEO. A. HAMILTON.

Messrs. LAIRD & CO., *Birkenhead.*

Laird Brothers to her Majesty's Treasury.

BIRKENHEAD IRON WORKS,

Birkenhead, October 21, 1863.

SIR: We beg to acknowledge the receipt of your communication of the 7th instant, about the iron-clad vessel now nearest completion, and to inform you that we have been informed by Mr. W. G. Stewart, assistant collector of her Majesty's customs, Liverpool, that he has been directed to place a customs officer on board the iron-clad vessel now nearest completion in the great float, Birkenhead, and that he has directions to seize her in case any attempt be made to remove her from where she is at present.

We have given the necessary order for admission to the vessel (called by us the *El Tonasson*) to Mr. Morgan, the surveyor of customs.

We are, respectfully, your most obedient servants,

LAIRD BROTHERS.

G. A. HAMILTON, Esq.

Laird Brothers to her Majesty's Treasury.

BIRKENHEAD IRON WORKS,

Birkenhead, October 9, 1863.

SIR: In further reply to your letter of the 7th instant, (acknowledged yesterday,) informing us that the lords commissioners of her Majesty's treasury have given in-

structions that a custom-house officer shall be placed on board the iron-clad vessel, now nearly completed at Birkenhead, with full authority to seize her on behalf of the Crown, in the event of any attempt being made to remove her from the float or dock where she is at present, unless under further directions from their lordships, and likewise to obtain from the officer in command of her Majesty's steamer *Majestic* any protection which may become necessary to support him in the execution of this duty, we beg to inform you that we have received this day a letter from Mr. Morgan, the surveyor of customs, giving us notice that, by direction of the honorable commissioners of customs, he has this day seized the iron-clad vessel now lying in the great float at Birkenhead.

Since the receipt of your letter of the 7th instant no attempt has been made to remove the vessel from her moorings at the quay in the great float, and we are therefore at a loss to understand this apparent deviation from the decision of their lordships, as expressed in their letter of the 7th, above referred to. But we consider this has been done, not with any distrust of our intentions to fulfill our engagement, of giving a week's notice of our intention to remove the vessel, nor with the view of interfering in any way with the workmen in the completion of her, but exclusively for the purposes of preventing an attempt which may be made by other parties to nullify our engagement.

Although we are not aware of any circumstances to induce us to entertain any apprehension of any attempt being made to deprive us of our property by force, we gladly avail ourselves of any protection her Majesty's government may think necessary for its security.

The vessel is still far from being ready for sea, and the work has been so much retarded by the excessively wet weather that it will be some weeks before she is finally completed.

We are, respectfully, your obedient servants,

LAIRD BROTHERS.

GEO. A. HAMILTON, Esq.

Her Majesty's Treasury to Laird Brothers.

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TREASURY CHAMBERS, October 9, 1863.

GENTLEMEN: I am commanded by the lords commissioners of her Majesty's treasury to inform you that, in consequence of information that has been received by her Majesty's government as to the probability of a forcible abduction of one or both of the iron-clad vessels in course of completion in the float at Birkenhead, their lordships have felt it their duty to order the seizure of both of these vessels, and have issued the necessary directions to the commissioners of customs accordingly.

I have the honor to be, gentlemen, your obedient servant,

GEO. A. HAMILTON.

Messrs. LAIRD, Birkenhead.

Laird Brothers to her Majesty's Treasury.

BIRKENHEAD IRON WORKS,

Birkenhead, October 17, 1863.

SIR: In reply to your letter of the 9th instant, informing us that, "in consequence of information which has been received by her Majesty's government as to the probability of a forcible abduction of one or both the iron-clad vessels in course of completion in the float at Birkenhead, their lordships had felt it their duty to order the seizure of both these vessels, and have issued the necessary directions to the commissioners of customs accordingly," we have made the fullest inquiry, and have not been able to ascertain any circumstance to induce us to apprehend the probability of a forcible abduction of one or both of the iron-clad vessels in course of completion by us at Birkenhead—one, the *El Tousson*, in the great float, the public dock, and the other, the *El Monnassir*, in our own dock, on our own premises.

Both vessels are incomplete, and unfit for sea-going; the second vessel has not even got masts or funnel in, and both are in the sole charge of our own people.

We believe, further, that if any such project as the forcible abduction of these vessels had ever been thought of, it could not successfully have been carried out in the port of Liverpool.

Their lordships have so often assured us that they are convinced that it is our intention, so far as in our power, to fulfill honorably the engagement which we have entered into with her Majesty's government, that we have deferred making any formal protest against the seizure of these vessels, or the arbitrary and extraordinary measures that have been carried out in placing an armed force in charge.

We can only suppose that their lordships have been induced to act as they have done by some information, which will be found on further investigation to have been entirely erroneous, or greatly exaggerated; and that they will, on the termination of the inquiries they have set on foot to investigate the case, feel justified in removing the vexatious restrictions they have placed upon our property, which have already caused and are still causing us an amount of loss and annoyance not easily estimated.

We remain, sir, your obedient servants,

LAIRD BROTHERS.

GEORGE A. HAMILTON, Esq.

LAIRD BROTHERS to her Majesty's Treasury.

BIRKENHEAD IRON WORKS,
Birkenhead, October 17, 1863.

SIR: Referring to your letter of the 7th instant, in which you say that you understand the trial trip of the iron-clad steam vessel the *El Tousson*, now nearly completed, has been abandoned, we beg to inform you that the trial trip was deferred, but not abandoned, as you will see by referring to our letter addressed to the Hon. H. Brand, on the 21st September, in which we informed him that we considered it desirable to defer the trial trip of the first of the iron-clads, the *El Tousson*, in consequence of the then incomplete state of the vessel and the then crowded state of the river Mersey, and also in order that her Majesty's government might be able to obtain further information as to the project which they had reason to apprehend was in existence—for seizing the iron-clad steam vessel, by force, on her trial trip.

We now beg to inform you that the work at the *El Tousson* is now in such a state of progress as to make it desirable to have a trial trip to test the working of the machinery, and we, therefore, shall be glad to know whether, with the information her Majesty's government have been able to obtain since the date of our former letter, they still consider that the precautions of having a force of seamen and marines on board are necessary to protect our property.

We propose that the trial trip shall take place about the end of next week, or the beginning of the week after—say some day between the 22d and 29th instant—and that it should not extend beyond what is considered the limits of the port, or within sight of the light-ship.

No circumstances have come to our knowledge to induce us to apprehend any attempt to take forcible possession of the vessel on her trial trip; and after the fullest inquiry, we are satisfied that if any such project ever existed in the port of Liverpool, the real facts of the case would have been discovered before this, and the parties implicated placed under such surveillance as to render the execution of their design impossible.

Waiting your reply, we remain, sir, your obedient servants,

LAIRD BROTHERS.

GEORGE A. HAMILTON, Esq.

LAIRD BROTHERS to S. Price Edwards, collector of her Majesty's customs, Liverpool.

BIRKENHEAD IRON WORKS,
Birkenhead, October 19, 1863.

SIR: Referring to the several communications we have had with you respecting the trial trip of the iron-clad steamer *El Tousson*, now in course of completion in the great float, and the decision come to on or about the 21st September last, to postpone the trial trip until the work on board was in a more advanced state towards completion, we now beg to inform you that the work is now in such a state of progress as to make it desirable to have a trial trip to test the working of the machinery, and we therefore shall be glad to know whether, with the information her Majesty's government have been able to obtain since the date of our former letter, they still consider that the precautions of having a force of seamen and marines on board are necessary to protect our property.

We propose that the trial trip shall take place about the end of this week or the beginning of the week after—say some day between the 22d and 29th instant—and that it should not extend beyond what is considered the limits of the port, or within sight of the light-ship.

No circumstances have come to our knowledge to induce us to apprehend any attempt to take forcible possession of the vessel on her trial trip; and after the fullest inquiry, we are satisfied that if any such project ever existed in the port of Liverpool,

the real facts of the case would have been discovered before this, and the parties implicated placed under such surveillance as to render the execution of their design impossible.

We remain, sir, your most obedient servant,

LAIRD BROTHERS.

S. PRICE EDWARDS, Esq.

Her Majesty's Treasury to Laird Brothers.

[Immediate.]

15,02344.]

TREASURY CHAMBERS, October 21, 1863.

GENTLEMEN: In reply to your letter of the 17th instant, relating to the iron-clad vessels which you are fitting out, I am commanded by the lords commissioners of her Majesty's treasury that, after duly weighing all the circumstances of the case, her Majesty's government are unable to consent to the trial trip of one of those vessels, the *El Tousson*, taking place, as proposed by you; neither can they allow the removal of the armed force which is stationed for the purpose of upholding the custom-house officers in possession of the vessel.

I am, gentlemen, your obedient servant,

GEO. A. HAMILTON.

Messrs. LAIRD,

Birkenhead Iron Works, Birkenhead.

Laird Brothers to her Majesty's Treasury.

BIRKENHEAD IRON WORKS,

Birkenhead, October 24, 1863.

SIR: We beg to acknowledge receipt of your letter of 21st instant, in which you inform us that her Majesty's government, after duly weighing all the circumstances of the case, are unable to consent to the trial trip of one of the vessels, the *El Tousson*, taking place, as proposed by us.

We beg to state that we did not propose that the trial trip should take place under any other conditions than were set forth in their lordships' letter of the 19th September, unless, from information received since the date of that letter, their lordships should think it no longer necessary to place a force of seamen and marines on board to protect our property; on the contrary, if her Majesty's government still apprehend any attempt, we will gladly avail ourselves, as already stated in our letter of 21st September, of any protection her Majesty's government may think necessary to defeat any such attempt.

We therefore respectfully renew our application to make the trial trip in the course of next week, or within any other suitable time.

We are, sir, your obedient servants,

LAIRD BROTHERS.

GEORGE A. HAMILTON, Esq.

Her Majesty's Treasury to Laird Brothers.

[Immediate.]

15,31044.]

TREASURY CHAMBER, October 27, 1863.

GENTLEMEN: In reply to your letter of 24th instant, I am commanded by the lords commissioners of her Majesty's treasury to acquaint you that they are unable to comply with your request to make a trial trip of the *El Tousson*, one of the iron-clad vessels fitting in your yard at Birkenhead, in the course of this week, or within any other suitable time.

I am, gentlemen, your obedient servant,

GEO. A. HAMILTON.

Messrs. LAIRD BROTHERS,

Birkenhead Iron Works, Birkenhead.

S. Price Edwards, esq., collector of customs, Liverpool, to Laird Brothers.

CUSTOM-HOUSE, LIVERPOOL, October 27, 1864.

GENTLEMEN: I hereby beg to inform you that your two cupola vessels are now detained, under the 223d section of "the customs consolidated act," the ground of detention being a violation of "the foreign enlistment act." And I take leave further to state that the officers in charge have received directions to remove your workmen at once from on board the ships.

I am, gentlemen, your obedient servant,

S. PRICE EDWARDS, *Collector.*

Messrs. LAIRD BROTHERS, *Birkenhead.*

Laird Brothers to her Majesty's Foreign Office.

[Telegram—October 29, 1863.]

From Laird Brothers, Birkenhead, to Earl Russell, Foreign Office, Whitehall, London.

Captain Inglefield informs us that his orders are to take the two iron-clads into the river Mersey. We protest against the probable destruction of our property in having ships (one of which is a mere hulk, without masts, funnel, or steering gear) taken out of docks, where they are now in safety, and moored in the river at this inclement season of the year, and we trust that the orders sent to Captain Inglefield will be reconsidered.

Same sent to G. A. Hamilton, secretary to the treasury, Whitehall, London; and to the secretary to the admiralty, Whitehall, London.

Her Majesty's Treasury to Laird Brothers.

[Telegram—October 29, 1863.]

From the assistant secretary, the Treasury, Whitehall, to Messrs. Laird, Birkenhead.

Captain Inglefield will, no doubt, in his dispositions regarding the iron-clad vessels, take every proper precaution for the preservation of the property. The orders have been well considered, and cannot be revoked or altered.

Laird Brothers to her Majesty's Foreign Office, Treasury, and Admiralty.

BIRKENHEAD IRON WORKS,
Birkenhead, October 29, 1863.

MY LORD: We sent you this morning the following telegram:

"Captain Inglefield informs us that his orders are to take the two iron-clads into the river Mersey.

"We protest against the probable destruction of our property in having ships (one of which is a mere hulk, without masts, funnel, or steering gear) taken out of docks, where they are now in safety, and moored in the river at this inclement season of the year, and we trust that the orders sent to Captain Inglefield will be reconsidered;" which we now beg to confirm.

We are, my lord, your most obedient servants,

LAIRD BROTHERS.

The Right Hon. EARL RUSSELL.

Same sent to G. A. Hamilton, esq., Secretary to the Treasury, and to the secretary to the admiralty.

Laird Brothers to her Majesty's Treasury.

BIRKENHEAD IRON WORKS,
Birkenhead, October 29, 1863.

MY LORDS: We beg to call your lordships' attention to the very serious position in which we are placed by the extraordinary steps taken by her Majesty's government with the two iron-clad ships now being built by us.

It is a rule well recognized in all trading establishments, that an order, while under execution, is the property of the person giving it, and that a builder has no right to make public the orders or instructions of his employers. This is a rule of business which must be well known to her Majesty's government.

On the 4th September, however, we were officially applied to by Mr. Layard for the information "on whose account, and with what destination, the vessels were being built."

Owing, however, to certain vague rumors which were current in the newspapers, and to the repeated visits of Mr. Morgan, the surveyor of her Majesty's customs, we had taken the precaution to obtain the owner's sanction to disclose his name, and we were accordingly enabled, by return of post, to reply to Mr. Layard's letter, and inform him that we were building the ships for Messrs. A. Bravay & Co., 6 Rue de Londres, Paris.

On the 9th September Mr. Hamilton, the secretary to the treasury, wrote us to say that the vessels would not be permitted to leave the Mersey until inquiries then being prosecuted had been brought to a conclusion.

In order to give her Majesty's government ample time to make these inquiries, we wrote in reply to say that the first vessel would not be complete in less than a month. And about the same time we stated that the first vessel would be ready for a trial trip in a short time, and that we would engage that she should return to the Birkenhead float.

On the 17th September permission was given for the trial trip, and we were further requested to give our personal undertaking that the vessel should not leave the port without our giving a week's notice to her Majesty's government.

This undertaking we readily gave by return of post.

On the 19th September we received a letter from Mr. Brand, secretary of the treasury, to say that the government feared an attempt might be made to seize the vessel while on her trial trip, but without giving any reason for such apprehension, and tendering the services of a force of seamen and marines.

We accepted this offer of protection, though unable, ourselves, to discover any grounds for such apprehension.

On the 7th October we received a letter from Mr. Hamilton, secretary of the treasury, stating that, from further information, it had become necessary that a custom-house officer should be placed on board, and the captain of the *Majestic* was instructed to afford him protection.

As none of these movements of her Majesty's government interfered with us in our completion of these ships, and as any plans to seize our ships, either by the northern or southern belligerents, would entail great pecuniary loss upon us, we, of course, made no objection to these means provided by the government for our protection, though we were then, and still are, unable to discover any grounds whatever for these precautionary measures, and we are satisfied that her Majesty's government have lent too credulous an ear to the inventions of designing persons.

But when her Majesty's government, without giving us any information to show us that they have any just grounds for doing so, proceed to seize our ships and turn off our workmen, and threaten to remove a helpless hulk from a place of safety into the open roadstead of the Mersey, we feel it our duty to enter our indignant protest against proceedings so illegal and so unconstitutional.

We have dealt candidly and openly with her Majesty's government. We have, with the owners' permission, given the names of the owners, and we believe we have a perfect legal right to build ships for a French subject without requiring from him a disclosure of his object in having such vessels constructed. It forms no part of our duty to interfere in any way with his affairs, and we shall not do so.

We need hardly say that we hold the government responsible to us for the large pecuniary loss we shall sustain by these arbitrary proceedings.

We are, my lords, your lordships' most obedient servants,

LAIRD BROTHERS.

The LORDS COMMISSIONERS OF H. M. TREASURY.

Laird Brothers to her Majesty's Treasury.

BIRKENHEAD IRON WORKS,
Birkenhead, October 30, 1863.

SIR: We received your telegram late yesterday afternoon, as follows:

"Captain Inglefield will, no doubt, in his dispositions regarding the iron-clad vessels, take every proper precaution for the preservation of the property. The orders have been well considered, and cannot be revoked or altered."

We take the liberty to draw the attention of her Majesty's government to the peculiar construction of the hulls and machinery of the vessels built by us and seized by the

government, and to express to them our conviction that it is not possible, in their present incomplete state, for any naval officer, by any dispositions he can make, to protect the vessels from damage even in a dock, and much less in the open roadstead of the Mersey, where, in our opinion, they cannot even be moored with safety in this inclement season of the year.

We are, sir, your obedient servants,

LAIRD BROTHERS.

The SECRETARY TO THE TREASURY.

Her Majesty's Foreign Office to Laird Brothers.

FOREIGN OFFICE, October 30, 1863.

GENTLEMEN: I am directed by Earl Russell to acknowledge the receipt of your letter of the 29th instant, containing copy of a telegraphic message which you addressed to his lordship on that day, protesting against the removal into the Mersey of the two iron-clad vessels now under seizure by the Crown, and I am to state to you that the matter has been referred to the lords commissioners of her Majesty's treasury.

I am, gentlemen, your most obedient servant,

E. HAMMOND.

Messrs. LAIRD, *Birkenhead.*

Her Majesty's Admiralty to Laird Brothers.

[In replying, quote the following initial letter M.]

ADMIRALTY, October 30, 1863.

GENTLEMEN: I am commanded by my lords commissioners of the admiralty to acknowledge the receipt of your letter of the 29th instant, forwarding a copy of the telegram sent by you to this office yesterday morning, and confirming its contents, by which you protest against the two iron-clads being taken into the river Mersey, and request that the orders given to Captain Inglefield may be reconsidered.

In reply, I am to inform you that my lords have referred your telegram to the secretary of state for foreign affairs.

I am, gentlemen, your most obedient servant,

W. G. ROMAINE.

Messrs. LAIRD BROTHERS, *Birkenhead.*

Laird Brothers to her Majesty's Foreign Office and Treasury.

[Telegram—October 31, 1863.]

From Laird Brothers, *Birkenhead*, to Earl Russell, Foreign Office, Downing street, London.

Admiralty write that they have referred to the secretary of state for foreign affairs our telegram and letter of the 29th instant, protesting against the removal of the iron-clads into the river Mersey. We renew our protest against moving the vessels from the dock, where they are now in perfect security either from forcible abduction or sea-risk. The weather is now most boisterous, and always uncertain at this time of the year.

A similar telegram sent to the secretary to the treasury.

Her Majesty's Foreign Office to Laird Brothers.

FOREIGN OFFICE, November 2, 1863.

GENTLEMEN: I am directed by Earl Russell to acknowledge the receipt of your telegraphic message of the 31st ultimo, renewing your protest against the removal from the docks of the two iron-clad vessels now under seizure by the Crown; and I am to state to you that the matter has been referred to the lords commissioners of her Majesty's treasury.

I am, gentlemen, your obedient servant,

E. HAMMOND.

Messrs. LAIRD, *Birkenhead.*

Her Majesty's Treasury to Laird Brothers.

[Immediate.]

15,586, 1/2]

TREASURY CHAMBERS, November 2, 1863.

GENTLEMEN: In reply to your letter of the 30th ultimo, representing the danger which the iron-clad vessels now under seizure will incur in consequence of their being removed from your premises, I am commanded by the lords commissioners of her Majesty's treasury to acquaint you that their lordships, having been in communication with the secretary of state in reference to your letter, have nothing to add to the communication made to you by telegram on the 29th ultimo.

I am, gentlemen, your obedient servant,

GEO. A. HAMILTON.

Messrs. LAIRD, Birkenhead.

Her Majesty's Treasury to Laird Brothers.

[Immediate.]

15,467 }
15,608 } 1/2
15,646 }

TREASURY CHAMBERS, November 3, 1863.

GENTLEMEN: I am commanded by the lords commissioners of her Majesty's treasury to acknowledge the receipt of your letter of 29th ultimo, in which you protest against the measures which her Majesty's government have felt it their duty to adopt for effecting and maintaining the seizure of the two iron-clad vessels at Birkenhead.

I am desired to state, in reply thereto, that their lordships can only refer you to the notice of the cause of seizure conveyed in the letter addressed to your firm by the collector of customs on the 27th ultimo, and that their lordships must decline to enter into any discussion of the subject with you before the investigation which the case will necessarily receive in a court of law.

I am, gentlemen, your obedient servant,

GEO. A. HAMILTON.

Messrs. LAIRD BROTHERS, Birkenhead.

Laird Brothers to her Majesty's Foreign Office, Treasury and Admiralty.

BIRKENHEAD IRON WORKS,
Birkenhead, December 7, 1863.

MY LORD: We beg to call your attention to the present condition of the two steam vessels, the El Tousson and the El Monnassir, which have been removed by Captain Inglefield from dock into the river Mersey.

On Thursday last it blew a very heavy gale of wind here, and several large vessels, one of them a large steamer, were driven from their moorings within the estuary.

We understand that no steps are as yet taken to bring the rights of the Crown before a jury, and in the mean time the vessels are exposed to great risk.

It is a matter of serious importance to us, as, in case the vessels should be lost or burned in the Mersey before we can deliver them to the owners, we shall be thereby prevented from completing our contract.

Our attention is more immediately called to this subject by the fact that one of the fire policemen on the El Monnassir expires to-day, and we are in doubt what, under the circumstances, we ought to do.

It is evident that the vessels ought to be insured, both against sea-risk and fire, and we shall be glad to know whether her Majesty's government have taken these precautions for the security of the property, and if not, whether they intend to do so.

We may further state that we trust the government have given strict orders that proper precautions are taken for the preservation of the property from the injury and deterioration it is liable to from exposure to the damp and wet at this inclement season.

We are, my lord, your obedient servants,

LAIRD BROTHERS.

Copy of above to—

Secretary to Treasury, same date;

Secretary to Admiralty, ditto.

The Right Hon. EARL RUSSELL.

Her Majesty's Treasury to Laird Brothers.

17,571{18.}

TREASURY CHAMBERS, December 10, 1863.

GENTLEMEN: I am desired by the lords commissioners of her Majesty's treasury to acknowledge the receipt of your letter, dated 7th instant, calling their lordships' attention to the exposed condition of the two steam vessels, *El Tousson* and *El Monnassir*, now lying in the river Mersey, under charge of Captain Inglefield, royal navy.

Your letter, though dated the 7th instant, was not received in London till the 10th, with the Birkenhead postmark of the 9th instant.

My lords desire me to acquaint you that the subjects adverted to in your letter shall receive immediate attention, and that a further communication will be addressed to you thereon.

I am, gentlemen, your obedient servant,

GEO. A. HAMILTON.

Messrs. LAIRD BROTHERS, *Birkenhead.**Her Majesty's Foreign Office to Laird Brothers.*

FOREIGN OFFICE, December 11, 1863.

GENTLEMEN: I am directed by Earl Russell to acknowledge the receipt of your letter of the 7th instant, which was only received at this office on the 10th; and I am to inform you that your letter has been referred to the treasury, for such directions as that department may think proper to give.

I am, gentlemen, your most obedient servant,

E. HAMMOND.

Messrs. LAIRD BROTHERS,
*Iron Works, Birkenhead.**The Admiralty to Laird Brothers.*

[In replying, quote the following initial letter M.]

ADMIRALTY, December 12, 1863.

GENTLEMEN: I have received and laid before my lords commissioners of the admiralty your letter of the 7th instant, calling attention to the present condition of the two steam vessels, *El Tousson* and *El Monnassir*, and as to the preservation of the property on board from injury, &c.

I am, gentlemen, your most obedient servant,

C. PAGET.

Messrs. LAIRD & Co., *Birkenhead.**Her Majesty's Treasury to Laird Brothers.*18,046 }
17,571 }{18.

TREASURY CHAMBERS, December 18, 1863.

GENTLEMEN: With further reference to your letter of the 7th instant, respecting the present condition of the two steam vessels, *El Tousson* and *El Monnassir*, I am desired by the lords commissioners of her Majesty's treasury to acquaint you that it is the intention of her Majesty's government that the existing insurances on these vessels should be kept up or renewed, *ad interim*, at the cost of the public, and in the name of some person on her Majesty's behalf, if you will agree to repay the cost of such insurance, in the event of the property in the vessels being hereafter adjudged to you, may be constituted a trustee of the policies for her Majesty, or for such person or persons as may hereafter be adjudged to be the owner or owners of the vessels, according to the result of the proceedings which may be taken for the purpose of deciding on the validity of the seizures.

As regards the precautions to be taken for preserving the vessels from injury by weather, my lords are satisfied that every possible precaution has been already taken, and will continue to be taken by the naval officer in command at Liverpool, and that no deterioration of any kind need be anticipated.

I am, gentlemen, your obedient servant,

GEO. A. HAMILTON.

Messrs. LAIRD BROTHERS, *Birkenhead.*

Laird Brothers to her Majesty's Treasury.

BIRKENHEAD IRON WORKS,
Birkenhead, December 21, 1863.

SIR: We beg to acknowledge the receipt of your letter of the 18th instant, and hope to send a reply to-morrow.

We are, sir, your obedient servants,

LAIRD BROTHERS.

G. A. HAMILTON, Esq.

Laird Brothers to her Majesty's Treasury.

BIRKENHEAD IRON WORKS,
Birkenhead, December 22, 1863.

SIR: We have the honor to acknowledge the receipt of your letter of the 18th instant, stating that it is the intention of her Majesty's government to keep up and renew, *ad interim*, the insurances of the El Tousson and El Monnassir, at the cost of the public, provided we will agree to repay the cost of such insurances, in the event of the property in the vessel being hereafter adjudged to us, according to the result of the proceedings which may be taken for the purpose of deciding on the validity of the seizures. In reply, we beg respectfully to submit to you that the condition we are asked to agree to is not reasonable.

For, not only do the vessels incur marine risk by being exposed in the estuary of the Mersey, which risk would not have arisen if the vessels had remained in the docks, but the time has expired during which they would have been in our possession at all.

If they had remained in dock no marine insurance would have been necessary, and if they had not been seized, they would ere this have been delivered to the purchasers.

Under these circumstances we respectfully submit that the vessels should be insured, and kept insured, at the public cost, without any such condition being imposed on us.

We beg to inform you that another policy against fire for £20,500 expires on the 24th instant.

We are, sir, your obedient servants,

LAIRD BROTHERS.

THE SECRETARY TO THE TREASURY.

P. S.—Since writing the above, we find that two further policies against fire—one for £14,000 and another for £5,000—also expire on the 24th instant.

LAIRD BROTHERS.

Laird Brothers to her Majesty's Treasury.

BIRKENHEAD IRON WORKS,
Birkenhead, December 30, 1863.

SIR: We beg respectfully to draw your attention to our letter of the 22d instant, respecting the insurance on the El Tousson and El Monnassir, and to request an early reply.

We are, sir, your obedient servants,

LAIRD BROTHERS.

THE SECRETARY TO THE TREASURY.

Laird Brothers to her Majesty's Treasury.

BIRKENHEAD IRON WORKS,
Birkenhead, January 9, 1864.

SIR: We wrote to you on the 30th December, drawing attention to our letter of 22d December, respecting the insurance on the El Tousson and El Monnassir, and asking a reply thereto.

As we have not received any communication on the subject, we would again respectfully ask an early reply.

We are, sir, your obedient servants,

LAIRD BROTHERS.

THE SECRETARY TO THE TREASURY.

Laird Brothers to her Majesty's Treasury.

BIRKENHEAD IRON WORKS,
Birkenhead, January 12, 1864.

SIR: From communications which have passed between our solicitors and those of the government, in the case of the *El Tousson* and *El Monnassir*, it would appear that the trial may not come on for a considerable time, and consequently the vessels will have to remain in their present exposed position, unless some other arrangement can be made with the government.

Were the vessels finished there would be much less risk of their receiving damage than in their present unfinished and unprotected state.

We, therefore, think it desirable to make the following proposals to the government, namely: That the vessels should be moved into the Birkenhead public docks, and placed at the top end of the great float, about a mile from the entrance, the government retaining possession by an armed force or otherwise, as they may think requisite, so that we may be able to complete our contract, which we are desirous of doing, although the value of the additional fittings we should put on board will be very considerable.

In the event of the government proving their right to retain the vessels, they will, if our proposal be agreed to, be in a much more perfect state. On the other hand, should the government not succeed, the vessels will be sooner ready for delivery by us to the owners, and consequently any claim for damages against the government will be reduced.

These proposals are made without prejudice to any legal proceedings Messrs. A. Bravay & Co., or ourselves, may be advised to take for obtaining compensation in this matter, and, being advantageous to her Majesty's government, we hope they will accede to them.

We desire further to add, that we have no hesitation in saying these vessels will be much more secure in the great float than they now are in the river Mersey; and, in support of this opinion, we inclose a plan showing where the vessels are at present moored, and where we purpose to have them placed.

We are, sir, your most obedient servants,

LAIRD BROTHERS.

The SECRETARY TO THE TREASURY.

The plan inclosed indicates the various positions of the vessels *El Tousson* and *El Monnassir*, as follows:

1. The situation in the Birkenhead dock, where *El Tousson* was lying when seized.
2. Messrs. Laird Brothers' dock, where the *El Monnassir* was lying when seized.
3. Present position of *El Tousson* and *El Monnassir* in river Mersey.
4. Situation in Birkenhead public dock, where it is proposed by Laird Brothers' letter of 12th January, to place the vessels for completion.

Her Majesty's Treasury to Laird Brothers.

5704^A.]

TREASURY CHAMBERS, *January 14, 1864.*

GENTLEMEN: In reply to your letter of the 12th instant, proposing that the *El Tousson* and *El Monnassir* should be placed in the Birkenhead docks, and there completed, I am commanded by the lords commissioners of her Majesty's treasury to inform you that their lordships regret that they are unable to comply with your request.

I am, gentlemen, your obedient servant,

GEO. A. HAMILTON.

Messrs. LAIRD & Co., *Birkenhead.*

Her Majesty's Treasury to Laird Brothers.

209 }
 464 } 20.

TREASURY CHAMBERS, *January 20, 1864.*

GENTLEMEN: In reply to your letter of the 9th instant, and previous letters, I am commanded by the lords commissioners of her Majesty's treasury to acquaint you that their lordships will provide, in the manner they may consider requisite, against the risks from fire and other damages to the iron-clad vessels *El Tousson* and *El Monnassir*, while they remain in possession of her Majesty's government.

I am, gentlemen, your obedient servant,

GEO. A. HAMILTON.

Messrs. LAIRD, *Birkenhead Iron Works, Birkenhead.*

Laird Brothers to her Majesty's Treasury.

BIRKENHEAD IRON WORKS,
Birkenhead, January 25, 1864.

SIR: We have the honor to acknowledge the receipt of your letter of the 14th instant, refusing us permission to finish the ships *El Tousson* and *El Monnassir*; and also of your letter of the 20th instant, stating that the lords of the treasury will provide in the manner they may consider requisite against the risks of fire and other damage.

If this decision about completing the ships be adhered to, we shall be prevented for an indefinite period from completing our contract, and, consequently, be kept out of a very large sum of money, which will be due to us, and which the owners are ready to pay to us as soon as the vessels are so completed and delivered to them in the port of Liverpool.

As stated in our former letter, we are perfectly satisfied that the government should retain possession, by an armed force or otherwise, as they may think requisite, until the legal proceedings now pending are terminated, or some other settlement of the question arrived at.

Taking all these circumstances into consideration, we trust that their lordships may see reason to alter their decision, and agree to the proposal contained in our letter of the 12th instant.

In the mean time, we beg to call the attention of the lords of the treasury to the fact that, though it is now several months since the vessels were seized, yet no steps have as yet been taken to bring the matter to a legal decision, although our attorneys have repeatedly pressed this course on the law advisers of the Crown.

We are, sir, your obedient servants,

LAIRD BROTHERS.

The SECRETARY TO THE TREASURY.

Her Majesty's Treasury to Laird Brothers.

TREASURY CHAMBERS, *February 2, 1864.*

GENTLEMEN: In reply to your further letter of 25th ultimo, I am desired by the lords commissioners of her Majesty's treasury to acquaint you that her Majesty's government cannot permit the iron-clad vessels built in your yard, and now under seizure, to be completed.

I am, gentlemen, your obedient servant,

GEO. A. HAMILTON.

Messrs. LAIRD BROTHERS,
Birkenhead Iron Works, Birkenhead.

Laird Brothers to her Majesty's Treasury.

BIRKENHEAD IRON WORKS,
Birkenhead, February 3, 1864.

SIR: We are in receipt of your letter of the 2d instant, in which you inform us that her Majesty's government cannot permit the iron-clad vessels built in our yard, and now under seizure, to be completed. We beg, however, to call your attention to the fact that no information has yet been afforded to us in reply to our repeated requests to know when the legal proceedings in the court of exchequer will be brought to trial before a jury.

We are informed by our legal advisers that they have repeatedly pressed this matter on the attention of the law officers of the Crown, but are unable to obtain any satisfactory information, although the case might have been brought to trial in November last, or in January last. We therefore feel ourselves entitled to urge upon her Majesty's government the propriety of their at once informing us as to the time when they purpose to bring this matter to trial.

It must be apparent that this continued delay in bringing the matter to a legal issue is an act of injustice to ourselves and to the owners of the ships.

We are, sir, your obedient servants,

LAIRD BROTHERS.

The SECRETARY TO THE TREASURY.

Her Majesty's Treasury to Laird Brothers.

[Immediate.]

2,1854.1

TREASURY CHAMBERS, February 8, 1864.

GENTLEMEN: In reply to your letter of the 3d instant, I am commanded by the lords commissioners of her Majesty's treasury to acquaint you that they are informed that an "information" in the case of the iron-clad vessels built by you, and now under seizure by her Majesty's government, will be filed in a few days, and that it may be necessary to send a commission aboard for the purpose of collecting evidence.

I am, gentlemen, your obedient servant,

G. A. HAMILTON.

Messrs. LAIRD BROTHERS,
Birkenhead Iron Works, Birkenhead.

APPENDIX.

CORRESPONDENCE BETWEEN OFFICERS OF HER MAJESTY'S CUSTOMS AND CAPTAIN INGLEDEN, R. N., AND MESSRS. LAIRD BROTHERS, RESPECTING THE IRON-CLAD VESSELS BUILDING AT BIRKENHEAD.

Assistant collector of her Majesty's customs, Liverpool, to Laird Brothers.

CUSTOM-HOUSE, LIVERPOOL, October 8, 1863.

GENTLEMEN: Pursuant to the instructions I have received, I beg to transmit to you the inclosed letter from the lords commissioners of her Majesty's treasury, and to inform you that I have been directed to place a customs officer on board the iron-clad vessel now nearest completion in the great float, Birkenhead, and that he has directions to seize her in case any attempt be made to remove her from where she is at present.

I am, gentlemen, your obedient servant,

W. G. STEWART,
Assistant Collector.

Messrs. LAIRD & Co., *Birkenhead.*

Laird Brothers to assistant collector of her Majesty's customs, Liverpool.

BIRKENHEAD IRON WORKS,
Birkenhead, October 8, 1863.

SIR: We beg to acknowledge receipt of your letter of this date, informing us that you have been directed to place an officer on board the iron-clad vessel now nearest completion in the great float, Birkenhead, and that he has directions to seize her in case any attempt be made to remove her from where she is at present.

We have given Mr. Morgan, the surveyor of customs, an order of admission to the iron-clad (which is named the *El Tousson*) now lying in the Birkenhead float, which order he will show to our watchman or ship-keeper when going on board.

We are, respectfully, your obedient servants,

LAIRD BROTHERS.

W. G. STEWART, Esq.,
Assistant Collector of her Majesty's Customs, Liverpool.

Laird Brothers to assistant collector of her Majesty's customs, Liverpool.

[Private—further reply.]

BIRKENHEAD IRON WORKS,
Birkenhead, October 8, 1863.

DEAR SIR: You have made a slight deviation in the wording of your letter of this date from that of the letter you sent over to us from the treasury. You say, "has directions to seize her in case any attempt be made to remove her from where she is at present."

The letter from the treasury speaks of the "*dock or float where she is at present.*"

Now, it is clear that the harbor-master has power to move the berths of vessels in

the dock as may best suit the working of the dock; and although we have requested Captain Hookey to give us as long notice of his intentions to move the *El Tousson* as he can consistently with the working of the dock, yet we feel that this notice may be given at a time when we cannot inform you of it, as it may be out of office hours.

We therefore suggest that the instructions should only apply (as we understand the treasury letter to be) in the event of an attempt being made to remove the vessel from the dock or float, and not to the mere moving of the ship under the orders and direction of the harbor-master.

We think that Mr. Morgan understands this, but feel that in a matter of this importance it is right to let you understand clearly what we consider we have been called upon to do by your letter and the letter from the treasury.

We are, sir, your obedient servants,

LAIRD BROTHERS.

W. G. STEWART, Esq.

Assistant collector of her Majesty's customs, Liverpool, to Laird Brothers.

CUSTOM-HOUSE, LIVERPOOL, October 8, 1863.

GENTLEMEN: I beg to acknowledge the receipt of your letter of this day's date, stating that you had given to Mr. Morgan, surveyor, an order of admission to the iron-clad *El Tousson*, and beg to thank you for the facility afforded by you to the officers of customs at all times.

I am, gentlemen, your obedient servant,

W. G. STEWART,
Assistant Collector.

Messrs. LAIRD BROTHERS.

Assistant collector of her Majesty's customs, Liverpool, to Laird Brothers.

[Private.]

CUSTOMS, LIVERPOOL, October 9, 1863.

GENTLEMEN: I have received your private note of yesterday, and regret that you should have the trouble of writing on the subject.

In speaking of the place where the iron-clad is at present, I meant merely to speak of the dock or float where she is at present, and which I used as synonymous with these terms.

I am, gentlemen, your obedient servant,

W. G. STEWART,
Assistant Collector.

Messrs. LAIRD BROTHERS.

E. Morgan, surveyor, her Majesty's customs, Liverpool, to Laird Brothers.

CUSTOMS, LIVERPOOL, October 9, 1863.

GENTLEMEN: I hereby beg to give you notice that I have this day seized the iron-plated cupola vessel now lying in the dock attached to your premises, by order of the commissioners of customs.

Respectfully,

E. MORGAN, *Surveyor.*

Messrs. LAIRD.

E. Morgan, surveyor, her Majesty's customs, Liverpool, to Laird Brothers.

SURVEYOR'S OFFICE, CUSTOMS, October 9, 1863.

GENTLEMEN: I hereby beg to give you notice that, by directions of the honorable commissioners of customs, I have this day seized the iron-clad vessel now lying in the great float, Birkenhead.

Respectfully,

EDWARD MORGAN, *Surveyor.*

Messrs. LAIRD.

Laird Brothers to Captain Inglefield, R. N., H. M. S. Majestic.

BIRKENHEAD IRON WORKS,
Birkenhead, October 12, 1863.

SIR: Understanding from you that you have received instructions from her Majesty's government to take such precautions as you may deem necessary to prevent the iron-clad El Monnassir (now being completed in our graving dock) from being forcibly taken away without our consent, and consequently nullifying the engagement which exists between us and her Majesty's government in respect to this vessel, and as the vessel cannot be removed from our graving dock without lifting the caisson at the entrance, and thus affording free egress to the river, we hereby engage to give you reasonable notice of our intention to lift the caisson for the purposes of working our dock, so that you may take such steps as you may think necessary to protect our property against the attempt which her Majesty's government apprehend.

We are, respectfully, sir, your obedient servants,

LAIRD BROTHERS.

Capt. INGLEFIELD, R. N.

Captain Inglefield, R. N., H. M. S. Majestic, to Laird Brothers.

HER MAJESTY'S STEAMER MAJESTIC,
Rock Ferry, October 14, 1863.

GENTLEMEN: I beg to acknowledge the receipt of your letter of yesterday, engaging to give me reasonable notice of your intention to lift the caisson of the graving dock in which the iron-clad vessel El Monnassir is now being completed, and in reference to our conversation yesterday regarding the possibility of any of your work-people being induced to open the sluices without your cognizance, and by which, in one tide, the caisson might be floated out of its present position, and the iron vessel thereby be withdrawn into the river. I consider that your proposal that the keys whereby these sluices are worked should be removed from the place they are at present kept to another of greater security, under your personal care, is deserving of my thanks, and is again suggestive of the good faith which has marked your transactions with me in this unpleasant matter. Allow me to take this opportunity of assuring you that, as far as I have been informed, such has never been doubted by those authorities who, for other reasons, have considered it necessary to place your iron-clad vessels under the surveillance of the customs. I have only further to request that you will let me be informed of your intention to open your graving dock at least twenty-four hours before the time proposed to float the caisson, and thus admit of my making, by a personal interview, an arrangement for the security of your vessel.

Further, having a specific duty to perform, I beg you will not misunderstand me or imagine that I am actuated by a want of confidence in your assurances, should I find that at a later period it becomes my duty to absolve you from your present engagements to me, and take such other precautions as the then progress of the iron-clad vessel toward completion would justify. In the mean time I am satisfied that the present arrangements are sufficient, and (as you expressed to me) doubtless more convenient to yourselves than placing a party of men as a guard upon your premises.

I am, gentlemen, your obedient servant,

E. A. INGLEFIELD, *Captain.*

Laird Brothers to Captain Inglefield, R. N., H. M. S. Majestic.

BIRKENHEAD WORKS, *Birkenhead, October 14, 1863.*

SIR: We beg to acknowledge the receipt of your letter of this date, in which you state—

That you have received our letter of the 12th instant, in which we engage, for the reasons enumerated therein, to give you reasonable notice of our intention to lift the caisson for the purpose of working our dock, so that you may take such steps as you may think necessary to protect our property against the forcible abduction which her Majesty's government apprehends.

And further, that you understood from the conversation that we had yesterday regarding the possibility of our people being induced to open the sluices without our cognizance, and by which in one tide the caisson might be floated out of its present position, and the iron vessel thereby withdrawn into the river, that we undertook that the keys whereby the sluices are worked should be removed from the place in which they are at present kept to another of greater security, under our personal care.

We beg to inform you that we are quite prepared to confirm the engagement given in our letter of the 12th; but you are under a misapprehension in supposing that we undertook that the keys whereby the sluices are worked should be removed from the

place where they are at present kept to another of greater security, under our personal care. As we are not prepared to remove the keys of the sluices from under the care of the superintendent of our docks, in whose good faith and discretion we have implicit reliance, we have given him special instructions to place the keys in a place of security, under lock and key, which we know he has done.

With regard to the latter part of your letter, we offer no opinion as to the necessity, or otherwise, of the proceedings which her Majesty's government have taken, or may think fit to take, in relation to this vessel, nor do we admit that the engagement given by us is intended as an admission on our part that our arrangement for carrying out these proceedings is more convenient than another; but we undertake that we will give you reasonable notice of our lifting the caisson, through which alone egress can be had to the river, so that you may take such steps as you may think necessary to protect our property against the attempt which her Majesty's government apprehends. And as you have informed us that you think at least twenty-four hours' notice is necessary to admit of your making, by a personal interview, an arrangement for the security of our vessel, we will endeavor to give you not less than this length of notice.

We are, sir, your obedient servants,

LAIRD BROTHERS.

Captain INGLEFIELD, R. N.,
H. M. S. *Majestic*.

Laird Brothers to Captain Inglefield, R. N., H. M. S. Majestic.

BIRKENHEAD IRON WORKS,
Birkenhead, October 19, 1863.

SIR: Referring to our letter of the 14th instant, we beg to inform you that we intend to open our dock, in which *El Monnassir* now lies, on Thursday morning next, at about 7 o'clock, and also on Saturday morning, at about 9 o'clock.

On Thursday the *El Monnassir* will not be moved out of dock, but on Saturday she will be taken outside the gates to allow the Holyhead steamer *Alexandra* to pass out; after which she will be hauled into dock again, and the caisson will be immediately put into its place.

We are, sir, your obedient servant,

LAIRD BROTHERS.

Captain INGLEFIELD, R. N.,
H. M. S. *Majestic*.

NOTE.—We shall be glad to have an acknowledgment of the receipt of this as soon as convenient.

LAIRD BROTHERS.

Captain Inglefield, R. N., H. M. S. Majestic, to Laird Brothers.

HER MAJESTY'S STRAMER *MAJESTIC*,
Rock Ferry, October 20, 1863.

GENTLEMEN: I beg to acknowledge the receipt of your letter of the 19th instant, informing me that you intend opening the dock in which *El Monnassir* is now lying on Thursday morning next, about 7 o'clock, and also on Saturday, about 9 o'clock.

I am, gentlemen, your obedient servant,

E. A. INGLEFIELD, *Captain*.

Messrs. LAIRD, *Birkenhead*.

Laird Brothers to Captain Inglefield, H. M. S. Majestic.

BIRKENHEAD IRON WORKS,
Birkenhead, October 22, 1863.

SIR: With reference to your letter of the 19th instant, as we were unable to get a ship lying in our No. 1 dock floated to-day, for the purpose of removing her to our No. 4 dock—the one in which the *El Monnassir* is lying—we shall be under the necessity of opening this dock again to-morrow morning.

We are, sir, your obedient servants,

LAIRD BROTHERS.

Captain INGLEFIELD, H. M. S. *Majestic*.

Please to acknowledge receipt of this per bearer. We regret having to give rather a shorter notice than you named to us, but we think it will be sufficient.

LAIRD BROTHERS.

Laird Brothers to Captain Inglefield, H. M. S. Majestic.

BIRKENHEAD IRON WORKS,
Birkenhead, October 24, 1863.

SIR: Owing to the dense fog, we were unable to open our dock this morning, but intend to do so on Monday morning.

Be so good as to acknowledge receipt of this intimation.

We are, sir, your obedient servants,

LAIRD BROTHERS.

Captain INGLEFIELD, R. N.,
H. M. S. Majestic.

Captain Inglefield, H. M. S. Majestic, to Laird Brothers.

HER MAJESTY'S STEAMER MAJESTIC,
Rock Ferry, October 26, 1863.

GENTLEMEN: I have to acknowledge your letter of the 24th instant, acquainting me that you propose to open your graving dock to-morrow morning.

I am, gentlemen, your obedient servant,

E. A. INGLEFIELD, Captain.

CUSTOM-HOUSE, *October 28, 1863.*

DEAR SIR: We have received instructions to transmit to Mr. Bravay a notice of seizure similar to that which was handed to you yesterday.

Will you be so good as to send per bearer the address of that gentleman?

Your obedient servant,

E. MORGAN, *Surveyor.*

Messrs. LAIRD BROTHERS.

BIRKENHEAD IRON WORKS,
Birkenhead, October 28, 1863.

DEAR SIR: In reply to your note of this day, asking for Mr. Bravay's address, it is as follows: Messrs. A. Bravay & Co., 6 Rue de Londres, Paris.

Your obedient servants,

LAIRD BROTHERS.

Mr. MORGAN.

Captain Inglefield, H. M. S. Majestic, to Laird Brothers.

HER MAJESTY'S STEAMER MAJESTIC,
Rock Ferry, October 28, 1863.

GENTLEMEN: I beg to acquaint you that I have received from the lords commissioners of the admiralty a letter, of which the following is an extract:

"Desiring that full possession should be immediately taken of the two iron-clads now under seizure at Birkenhead, that Messrs. Lairds' workmen should be immediately removed from them, and that the vessels themselves should be removed into the Mersey and stationed where you may determine, with a sufficient guard placed on board of them."

I have, therefore, to request you will deliver the vessels in question to my custody upon my sending an officer and party to take charge of them.

I am, gentlemen, your obedient servant,

E. A. INGLEFIELD, Captain.

Messrs. LAIRD, *Birkenhead.*

Laird Brothers to Captain Inglefield, H. M. S. Majestic.

BIRKENHEAD IRON WORKS,
Birkenhead, October 28, 1863.

SIR: Referring to the conversation you had with our Mr. John Laird, jr., this morning, and the request you made to us for assistance in preparing the El Monnassir for

removal from our graving dock, we shall feel obliged if you will put your request in writing, and we will then give it our best consideration.

We are, sir, your obedient servants,

LAIRD BROTHERS.

Captain INGLEFIELD, R. N.,
H. M. S. *Majestic*.

Captain Inglefield, H. M. S. Majestic, to Laird Brothers.

HER MAJESTY'S STEAMER MAJESTIC,
Rock Ferry, October 28, 1863.

GENTLEMEN: With reference to your letter of this date, requesting that I will put in writing the verbal application I made to you this afternoon for assistance in preparing the *El Monnassir* for removal from your graving dock, I beg now to renew the application, and request that you will give me such assistance by the loan of an anchor and cable, being essential to enable me to moor that vessel in safety in the Sloyne.

I have further to add, that such anchor and cable will be accepted as a personal loan. And I undertake that it shall not be considered as a part of the seizure of the aforesaid iron-clad vessel *El Monnassir*.

I am, gentlemen, your obedient servant,

E. A. INGLEFIELD, *Captain*.

Messrs. LAIRD, *Birkenhead*.

Laird Brothers to Captain Inglefield, H. M. S. Majestic.

BIRKENHEAD IRON WORKS,
Birkenhead, October 29, 1863.

SIR: We have the honor to acknowledge the receipt of your letter of the 28th instant, informing us that you have received from the lords commissioners of admiralty a letter, of which the following is an extract:

"Desiring that full possession should be immediately taken of the two iron-clads now under seizure at Birkenhead, that Messrs. Lairds' workmen should be immediately removed from them, and that the vessels themselves should be removed into the Mersey and stationed where you may determine, with a sufficient guard placed on board of them;" and that you therefore request that we will deliver the vessels in question to your custody upon your sending an officer and party to take charge of them.

We beg formally to protest against the illegal and unconstitutional seizure of these ships.

We shall, of course, offer no obstruction to the physical force with which we are threatened by the government. At the same time we protest against the probable destruction of our property in having ships, one of which is a mere hulk, without masts, funnel, or steering gear, taken out of the docks, where they are now in a place of safety, and moored in the river Mersey at this inclement season of the year; and we trust that the government will reconsider orders they have given you on this point.

We are, sir, your obedient servants,

LAIRD BROTHERS.

Captain INGLEFIELD, R. N.,
H. M. S. *Majestic*.

Laird Brothers to Captain Inglefield, H. M. S. Majestic.

BIRKENHEAD IRON WORKS,
Birkenhead, October 29, 1863.

SIR: We have the honor to acknowledge the receipt of your communication of the 28th instant, requesting us to render you assistance in preparing the *El Monnassir* for removal from our graving dock, and, further, to grant the loan of an anchor and cable, which are essential to enable you to moor the vessel with safety in the Sloyne.

We have every desire to render you, personally, any assistance in our power in carrying out the illegal and unpleasant duty imposed upon you, but having given the matter very serious consideration, and regarding the responsibility we are under to the owners of those vessels, we greatly regret that we cannot, in justice either to them or to ourselves, do anything to relieve her Majesty's government from the responsibility they are under to us and to the owners in attempting to remove from our graving dock into the Mersey a vessel in the helpless condition of the *El Monnassir*.

You are aware that in order to remove the *El Monnassir* it will be necessary to re-

move the caisson. This is an operation requiring some skill, and, in order to prevent injury to the caisson, we shall instruct our foreman to remove it on the day when you intend to remove our vessel.

We renew our protest to you at the illegal and extraordinary conduct of the government in this matter.

We are, sir, your obedient servants,

LAIRD BROTHERS.

Captain INGLEFIELD, R. N.,
H. M. S. *Majestic*.

Captain Inglefield to Laird Brothers.

HER MAJESTY'S STEAMER MAJESTIC,
Rock Ferry, October 28, 1863.

GENTLEMEN: At ten o'clock to-morrow morning I shall send a lieutenant, the chief engineer, boatswain, and carpenter, to make a survey and inventory of the furniture and fittings of the *El Tousson*. I hope this will suit your convenience.

I am, gentlemen, your obedient servant,

E. A. INGLEFIELD, Captain.

Messrs. LAIRD, Birkenhead.

Captain Inglefield, H. M. S. Majestic, to Laird Brothers.

HER MAJESTY'S STEAMER MAJESTIC,
Rock Ferry, October 30, 1863.

GENTLEMEN: I have taken the advice of Mr. Bond, the pilot, upon the subject of moving the *El Monnassir*, and he states that it would be most imprudent to attempt to move that vessel into the river without a second anchor on board, unless she could be put to a buoy, and it will not be earlier than Monday that I can obtain the use of the latter. I am obliged, therefore, to postpone taking that vessel out of your graving dock to-morrow, as I cannot get an anchor on board in time.

I can only add, that if this should cause you any inconvenience I am really much concerned.

And always yours, respectfully,

E. A. INGLEFIELD, Captain.

Messrs. LAIRD, Birkenhead.

Laird Brothers to Captain Inglefield, H. M. S. Majestic.

BIRKENHEAD IRON WORKS,
Birkenhead, October 31, 1863.

SIR: We beg to acknowledge the receipt of your letter of the 30th instant, informing us that you have taken the advice of Mr. Bond, the pilot, upon the subject of moving the *El Monnassir*, and that he states that it would be most imprudent to attempt to move that vessel into the river without a second anchor on board, unless she could be put to a buoy; that it will not be earlier than Monday that you can obtain the use of the latter; and that you are therefore obliged to postpone taking that vessel out of our graving dock to-morrow, as you cannot get an anchor on board in time.

In reply, we beg to state that, owing to the lowness of the neap tides during the next week, we cannot with safety float the caisson at the entrance of the dock, and therefore must decline doing so.

We are, sir, your obedient servants,

LAIRD BROTHERS.

Captain INGLEFIELD, R. N.,
H. M. S. *Majestic*.

Captain Inglefield, H. M. S. Majestic, to Laird Brothers.

HER MAJESTY'S STEAMER MAJESTIC,
Rock Ferry, November 3, 1863.

GENTLEMEN: Obedient to instructions I have received from the lords commissioners of the admiralty, I have removed the *El Tousson* from the great float, and moored her

near my ship. It, however, became necessary to pay the dock dues that the ship might be cleared; and as you expressed to me, when I spoke to you myself on the subject, that you did not intend to pay them, I have deposited the sum of £150 with the dock committee under protest, and now renew my request that you will pay these dues, so that I may be refunded the amount deposited.

I am, gentlemen, your obedient servant,

E. A. INGLEFIELD, *Captain.*

Messrs. LAIRD, *Birkenhead.*

APPENDIX No. XIV.

RECOGNITION OF REBEL BELLIGERENCY AS SHOWN IN THE CASES OF THE CHESAPEAKE, THE J. L. GAR- ATY, AND THE ROANOKE.

CASE OF THE CHESAPEAKE.

[From British Blue Book, "North America," No. 9, 1864, p. 1.]

No. 1.

Lord Lyons to Earl Russell.

WASHINGTON, December 11, 1863.

MY LORD: The inclosed extract from the New York Herald of yesterday will make your lordship acquainted with the intelligence which has been received here of the seizure of an American steamer the Chesapeake, plying between New York and Portland, by a party of men who embarked as passengers at New York. The master and crew appear to have been landed at Partridge Island, at the entrance of the harbor of St. John, New Brunswick.

I have not had any communication with the United States government about this affair, nor have I received any intelligence concerning it except that contained in newspapers.

I have, &c.,

LYONS.

Lord Lyons to Mr. Seward.

WASHINGTON, December 12, 1863.

MY DEAR SIR: I have just received a telegram from the administrator of the government of Nova Scotia, stating that the Chesapeake has not put into any port in that colony. My impression was that the telegram you showed me before dinner yesterday came from your vice-consul at Halifax, and that he stated that the Crown lawyers there were considering the case.

Yours, faithfully,

LYONS.

Hon. WILLIAM H. SEWARD, &c., &c., &c.

Mr. Seward to Lord Lyons.

SATURDAY EVENING, December 12, 1863.

MY DEAR LORD LYONS: Your impression in regard to the telegram was correct. Will you have the kindness to repeat your dispatch to the governor of New Brunswick, as the Chesapeake may have put into one of the ports of that province?

Very faithfully, yours,

WILLIAM H. SEWARD.

Right Hon. LORD LYONS, &c., &c., &c.

[From British Blue Book, "North America," No. 9, 1864, p. 4.]

No. 2.

Lord Lyons to Earl Russell.

WASHINGTON, December 15, 1863.

MY LORD: On the 11th instant, a few minutes after I had sent off my dispatch to your lordship of that day, Mr. Seward called upon me and showed me a telegram which he had just received from the United States vice-consul at Halifax. It had been not very correctly transmitted, but the substance of it appeared to be that the Chesapeake had been taken, by the passengers who seized her, into the port of Shelburn in Nova Scotia, and that the Crown lawyers at Halifax were deliberating on the case. Mr. Seward begged me to address a telegraphic dispatch to the governor of Nova Scotia, to request, in the name of this government, that all proper measures might be taken to prevent the escape of the vessel. The result of my conversation with Mr. Seward was that I dispatched a telegram to General Doyle, the administrator of the government of Nova Scotia, stating that the Secretary of State of the United States requested me to beg him to take all measures compatible with international and municipal law, in order that justice might be done in the case. General Doyle having replied that the Chesapeake had not entered any port within his jurisdiction, I dispatched, at Mr. Seward's request, a telegram to the governor of New Brunswick, to the same effect as that which I had sent to Nova Scotia.

I have the honor to inclose copies of correspondence which I have had on the subject.

I have, &c.,

LYONS.

INCLOSURES.

Lord Lyons to Mr. Seward, December 12, 1863.

Mr. Seward to Lord Lyons, December 12, 1863.

Printed *ante*.

Mr. Seward to Lord Lyons.

DEPARTMENT OF STATE,

Washington, December 16, 1863.

MY LORD: This department is in possession of authentic information that among the persons who recently committed piracy and murder on board the United States steamer Chesapeake were two named Braine and Parr, respectively, and that they have taken refuge in the British province of New Brunswick or Nova Scotia. As it is desirable that they should be detained there until the formal affidavits can be forwarded with a view to their extradition for trial in this country, I will thank you to request her Majesty's authorities to do anything which can be legally done for that purpose.

I have the honor to be, with high consideration, my lord, your obedient servant,

WILLIAM H. SEWARD.

Right Hon. LORD LYONS, &c., &c., &c.

Lord Lyons to Mr. Seward.

WASHINGTON, December 16, 1863.

MY DEAR SIR: I send you a copy of the telegram which I have dispatched to the administrator of the government of Nova Scotia, in consequence of the note which I received from you this morning respecting the affair of the Chesapeake, and the conversation which I had with you on the subject afterwards.

I have dispatched an identical telegram to the lieutenant governor of New Brunswick.

Yours, faithfully,

LYONS.

Hon. WILLIAM H. SEWARD, &c., &c., &c.

Lord Lyons to Lieutenant Governor Gordon (and Major General Doyle.)

[Telegraphic.]

WASHINGTON, December 16, 1863.

The United States government informs me officially that it has authentic intelligence that Braine and Parr, two men charged with having committed piracy and murder on board the United States steamer *Chesapeake*, have taken refuge in Nova Scotia or New Brunswick; and it requests the British authorities to do anything which can be legally done to detain the two men until formal affidavits can be procured with a view to their extradition for trial. The Secretary of State suggests that if it be alleged that the men were belligerents, and that their acts were acts of lawful warfare, the proper time for examining this plea will be when the propriety of complying with an actual demand for extradition shall be under consideration. I have answered that it is certain that your excellency will act in exact conformity with the requirements of municipal law and international law and comity.

LYONS.

Mr. Seward to Mr. Adams.

[Extract.]

No. 786.]

DEPARTMENT OF STATE,

Washington, December 17, 1863.

SIR: Your dispatch of the 27th of November (No. 545) has been received. We await with much interest the end of the prosecution in the case of the *Alexandra*. Meanwhile the bold and flagrant crime committed in the name of the insurgents here, by seizing the steamer *Chesapeake*, and using the British colonial coasts and waters as a base of their piratical operations, ought to bring home to the British government the discovery that its premature toleration of the anomalous belligerent is engendering a border war, which would be a sad and dangerous sequel to our unhappy insurrection.

Again, if the northern states of Europe are to become a theater of a civil war in Denmark, with the intervention of foreign states on opposing sides, according to their sympathies or dynastic interests, it will soon become important to know by what code of neutrality our own conduct is to be regulated—whether the one we have set up, or the one that has been adopted by Great Britain and France in regard to ourselves.

I am, sir, your obedient servant,

WILLIAM H. SEWARD.

CHARLES FRANCIS ADAMS, Esq., &c., &c., &c.

Mr. Seward to Lord Lyons.

DEPARTMENT OF STATE,

Washington, December 18, 1863.

MY LORD: The *Chesapeake* is a regularly licensed American steamer, plying the coasting trade, carrying passengers and freight between the city of New York and Portland, in the State of Maine. On the 5th of December last, under the care of her captain, (Willett,) with a crew in all consisting of seventeen persons, old and young, male and female, she took on board at New York sixteen unsuspected passengers, all of whom paid their fares, and she set out at half past 3 in the afternoon on her voyage to Portland. On Monday the 7th instant, at half past 1 in the morning, the steamer then being off Cape Cod, on the high seas, these passengers surprised the watch, murdered the second engineer, maimed and disabled the first mate, and seized the captain and crew, and confined the captain with irons. The piratical passengers then took control of the steamer. Arriving at Partridge Island, in St. John Harbor, in the waters of New Brunswick, the pirates delivered the captain and crew on board of a pilot-boat, which seemed to be attending by concert, and they were subsequently put on shore at St. John, in that province. Information of these crimes having reached this government, several ships of war were sent out to capture the pirates and recover the *Chesapeake*. Advice being received that the former were likely to seek refuge either in New Brunswick or Nova Scotia, the United States consuls were directed to apply to her Majesty's authorities for their arrest and detention, until a requisition could be made for their delivery under the existing treaty between the two governments, as fugitives from justice. Your lordship is, I believe, already informed that his honor the chief justice of Nova Scotia

issued warrants for the arrest of the offenders, but I am not advised that any of them have actually been arrested under that process.

I now learn by telegrams which have been received from Mr. Gunnison, the American vice-consul at Halifax, that United States ship of war *Ella* and *Annie*, under S. F. Nichols, commander, at 9 o'clock in the morning of yesterday, the 17th, saw the *Chesapeake* lying in Sambro Harbor, Nova Scotia, under flag of distress, and that the pirates were abandoning her. The *Ella* and *Annie* proceeded to the vessel, and two of the crew found on board of the *Chesapeake* delivered her up to the officers of the *Ella* and *Annie*. Those officers immediately proceeded with the *Chesapeake* to Halifax, where they now have that vessel, and it is said three of the pirates, in their keeping. The object of the officers in proceeding to Halifax was to deliver that vessel and pirates up to her Majesty's authorities if they should desire that to be done. Meantime the consul has reported the transaction to this government and asked instructions.

Assuming this statement of facts to be true, I am not aware that the naval officers have, in any respect, violated the sovereignty of jurisdiction of Great Britain. It is possible, however, that the case may not yet have been fully made known to this government. To guard, therefore, against any possible misapprehension, I have now by the President's directions to inform your lordship that this government has not authorized, nor does it propose to justify, any exercise whatever of authority, by its agents, within the waters or on the soil of Nova Scotia. If any such authority has been assumed, this government will at once express its profound regret; and it stands ready, in that case, to make amends which shall be entirely satisfactory.

The question, however, remains, what shall now be done with the *Chesapeake* and the pirates? This government will, if it be required, place them at once in the custody of her Majesty's authorities at Halifax. Nevertheless, as at present advised, it would be my duty, in that case, to demand a delivery of the vessel, that it may be restored to its undoubted owners, and a surrender of the pirates, to be tried by our laws for their crimes. Such proceedings would be dilatory, and possibly somewhat embarrassing to the authorities at Halifax. I have thought it proper, therefore, to propose another mode of proceeding which would save all the rights of her Majesty's government, while it may be more convenient to all parties. If it shall be agreeable to the authorities at Halifax, the *Chesapeake* and the pirates may be left in the keeping of the naval authorities of the United States, and may be brought back to our own country. Here not only the vessel, but the pirates, will in that case be held in custody until the wishes of her Majesty's government shall be expressed, and if they shall see fit to require it, they will at once be restored to the care of the British government, the United States reserving the right to make legal requisition in the case for the fulfillment of justice.

I have the honor to be, with high consideration, my lord, your obedient servant,
WILLIAM H. SEWARD.

Right Hon. LORD LYONS, &c., &c., &c.

Lord Lyons to Mr. Seward.

WASHINGTON, December 18, 1863.

SIR: I have the honor to acknowledge the receipt of your note of to-day, communicating to me the recent intelligence which has reached you concerning the steamer *Chesapeake*.

I accept with entire satisfaction the disavowal you so promptly make of any assumption of authority by officers of the United States within the territorial jurisdiction of her Majesty's province of Nova Scotia; and I will lose no time in communicating to the administrator of the government of that province the suggestions which your note contains respecting the disposal of the *Chesapeake* and the three men found on board. His excellency will certainly consider those suggestions with a desire to fulfill to the utmost the obligations of international comity and good neighborhood.

I have the honor to be, with high consideration, sir, your most obedient, humble servant,

LYONS.

Hon. WILLIAM H. SEWARD, &c., &c., &c.

Mr. Seward to Mr. Adams.

No. 788.]

DEPARTMENT OF STATE,

Washington, December 19, 1863.

SIR: I give you herewith, for your information, a copy of the papers relating to the piracy committed upon the *Chesapeake*.

It is very desirable, if possible, that her Majesty's government should cause a surrender of the criminals. It would avert possible embarrassments, which I need not particularly indicate, and would manifestly be very useful in preventing the rise of border jealousies, a class of troubles always to be seriously deprecated.

I am, sir, your obedient servant,

WILLIAM H. SEWARD.

CHARLES FRANCIS ADAMS, Esq., &c., &c., &c.

INCLOSURES.

Lord Lyons to Mr. Seward, December 12, 1863.

Mr. Seward to Lord Lyons, December 12, 1863.

Mr. Seward to Lord Lyons, December 16, 1863.

Lord Lyons to Mr. Seward, December 16, 1863.

Mr. Seward to Lord Lyons, December 18, 1863.

Lord Lyons to Mr. Seward, December 18, 1863.

[The above mentioned inclosures are printed *ante*.]

Mr. Seward to Lord Lyons.

DEPARTMENT OF STATE,

Washington, December 20, 1863.

MY LORD: Credible information having reached this department that John C. Braine, H. A. Parr, John Parker Locke, *alias* Vernon G. Locke, David Collins, George Robinson, John Wade, and others, have committed piracy and murder on board the United States steamer Chesapeake, while that vessel was on her way from New York to Portland, in Maine, and that they have taken refuge in the British provinces of New Brunswick or Nova Scotia, I have the honor to request that, pursuant to the 10th article of the treaty of Washington, they may be delivered up for trial in the United States.

I have the honor to be, with high consideration, my lord, your obedient servant,

WILLIAM H. SEWARD.

Right Hon. LORD LYONS, &c., &c., &c.

[From British Blue Book, "North America," No. 9, 1864, p. 5.]

No. 3.

Lord Lyons to Earl Russell.

[Extract.]

WASHINGTON, December 21, 1863.

With reference to my dispatch of the 15th instant, I have the honor to transmit to your lordship copies of further correspondence relative to the American steamer Chesapeake, which was taken possession of at sea by some of the passengers, who overpowered the master and crew.

Your lordship will find among the correspondence a note from Mr. Seward to me, informing me, by direction of the President, that this government has not authorized, and does not propose to justify, any exercise whatever of authority by its agents within the waters or on the soil of Nova Scotia; and that if any such authority has been assumed this government will at once express its profound regret, and stands ready, in that case, to make amends which shall be entirely satisfactory.

I have deemed it right to be content with this assurance until I shall receive fuller information of what has occurred in Nova Scotia, and shall be made acquainted with the views and wishes of the administrator of the government of the province.

An account of my communications with Mr. Seward on the subject is contained in the letter to Major General Doyle which forms the last inclosure in this dispatch.

LIST OF INCLOSURES PRINTED IN THIS COMPILATION.

1. Mr. Seward to Lord Lyons, December 16, 1863.
 2. Lord Lyons to Lieutenant Governor Gordon, (telegram,) December 16, 1863.
 3. Lord Lyons to Mr. Seward, December 16, 1863.
 6. Mr. Seward to Lord Lyons, December 18, 1863.
 7. Lord Lyons to Mr. Seward, December 18, 1863.
- [The above inclosures will be found printed *ante*.]
8. Lord Lyons to Major General Doyle, December 21, 1863.

[Inclosure No. 8.]

Lord Lyons to Major General Doyle.

[Extract.]

WASHINGTON, December 21, 1863.

I transmit to you copies of a note from Mr. Seward, and the answer from me. When I delivered this answer to him, Mr. Seward told me he should immediately telegraph his note *in extenso*, and my answer to the United States consul at Halifax; and he read to me a telegram which he said he should dispatch at the same time, directing the consul to communicate the notes to you, and then to dispose of the Chesapeake and the men taken on board, as you should direct.

On the following day I received your excellency's telegram of the 18th instant. I immediately went to Mr. Seward, and after pointing out the material difference between the actual facts as stated by you, and the reports which he had received when he wrote his note, I said that I should consider whether it would not be necessary that I should address to him without delay an official written remonstrance against the proceedings of the United States officers. Mr. Seward, observed to me, that he had already declared in his note that this government had not authorized, and would not authorize, any exercise whatever of authority by its agents, within the waters or on the soil of Nova Scotia. And that he had added, that if any such authority should have been assumed this government would at once express its profound regret, and make amends which should be entirely satisfactory. This having been done, he thought it would be better that any further written communications should be postponed until we had full information of what had occurred, or, at all events, until we knew what view your excellency would take of the note. I answered that I would beg him to consider whether the new facts which your excellency's telegram disclosed did not render it advisable that he should send further instructions to the United States officer at Halifax.

On reflection I came to the conclusion that it would be better to wait until I was made more fully acquainted with your excellency's views and wishes before I took any further steps. And thus the matter stands at the present moment.

[From British Blue Book, "North America," No. 9, 1864, pp. 10-24.]

No. 5.

Major General Doyle to the Duke of Newcastle.

HALIFAX, NOVA SCOTIA,
December 23, 1863.

MY LORD DUKE: I have the honor to report, for the information of your Grace, the circumstances connected with the steamship Chesapeake, recently brought into this harbor by United States men-of-war.

2. On the 10th December a letter, a copy of which is annexed, was addressed to the honorable provincial secretary of my government by Mr. Gunnison, ex-vice-consul of the United States of America, stating that information had been received at the United States consulate that the American steamer Chesapeake had been seized by a band of pirates and murder committed, and requesting that should the Chesapeake or any one connected with her enter our ports, she should be detained, and the parties implicated arrested, and held to answer any charge that might be preferred against them.

3. At the same time, and subsequently between the 10th and 15th December, Mr. Gunnison handed the provincial secretary copies of the annexed telegrams, and an affidavit made by the vice-consul on the 14th instant, all of which were by my direction placed in the hands of the law officers of this government.

4. On the 11th instant I received a telegram from Lord Lyons, saying he was informed that the American government had heard that the steamer Chesapeake had put into a Nova Scotian port, and that the Secretary of State had begged him to take all measures compatible with international and municipal law, in order that justice might be done, to which I replied that the Chesapeake had not been heard of in any of our ports, and inquired whether I should detain her if she should come.

5. On the 14th instant the provincial secretary replied to the vice-consul that the question raised by his communication had been submitted to the crown officers, and that they did not see, as at present informed, that they could legally interfere. A copy of that letter is annexed.

6. During the 15th and 16th instant telegrams were received by the government here from the custom-house officers at Lunenburg and Bridgewater, saying that the Chesapeake had reported herself as the confederate war-steamer Retribution, had exhibited

commission from confederate authorities, and had thus obtained permission to land certain articles, to purchase necessities; that on discovering that it was the Chesapeake, she had been forbidden to land anything more, and had sailed on the morning of the 16th instant, all of which is more fully detailed in the letters of the 14th and 18th instant, written by John Harley, collector of customs at Bridgewater, to the honorable receiver general, copies of which are annexed.

7. On the 15th instant I received a telegram from Lord Lyons, requesting me to obtain the best legal advice and act upon it, as it was impossible for him to foresee the circumstances under which the acts alleged to have taken place had occurred.

8. About 9 o'clock on the evening of the 16th instant, a formal requisition for the apprehension of Braine and others, of which a copy is annexed, was sent by Mr. Gunnison to the provincial secretary, and placed at once by that officer in the hands of the honorable J. W. Johnston, the attorney general, and at 1 o'clock a. m. next morning, upon the application of Mr. Gunnison through his attorney, stating that if he could obtain the necessary warrant Braine could then be arrested, the provincial secretary obtained a preliminary warrant from the attorney general, a copy of which is also annexed, and brought it for my signature at 2 o'clock a. m. It was signed by me, and having been taken at once to the chief justice, that officer, after receiving a deposition in the case, issued a warrant for the apprehension of Braine, but the police, in whose hands it was placed, did not succeed in finding him. These proceedings were duly detailed by telegram to Lord Lyons.

9. About noon on the 17th instant I received a communication from the director of signals stating that two steamers (apparently federal gun-boats) were bringing in a steamer which had put into Sambro harbor the night before, and which was supposed to be the Chesapeake, all bearing the flag of the federal States.

These American men-of-war having anchored opposite this city about half-past 2 o'clock p. m. and no report having been received from them, about half-past 5 o'clock p. m. I addressed the officer in command through the provincial secretary in a letter inquiring the names of the ships under his command, the object of their visit, and the circumstances under which the Chesapeake had been taken out of the harbor of Sambro, a Nova Scotian port, and brought into this harbor. Commander A. G. Clarey, of the United States gun-boat Dacotah, immediately accompanied Mr. Johnston (a clerk in the provincial secretary's office, by whom the letter to him had been delivered) to my house. An officer of the Dacotah having arrived a few minutes previously, together with Mr. Gunnison, the United States vice-consul, Commander Clarey explained that he had sent an officer on shore to report their arrival to the head of the government, but that he had been detained at the consulate by urgent business. He also apologized for the omission on the part of the gun-boat Ella and Annie to report herself when coaling a few days previously, and made further explanations to which it is not necessary to refer, as they were substantially embodied in his official answer to the letter which had been addressed to him.

10. On the same evening the provincial secretary received a reply explaining that Commander Clarey had intended to comply with all the proprieties required in British ports; that the men-of-war under his control were the United States steamers Dacotah, and Ella and Annie; and that he had entered this harbor for the purpose of delivering the Chesapeake to the British authorities, or to take her to the United States to deliver her to the United States government or to the owners, upon the faith, if any difficulty should arise, to make restitution to the British authorities. It is further stated that the crew of the Ella and Annie, under the command of Acting Lieutenant J. F. Nichols, had seen a flag of distress of the United States flying from a steamer in the harbor of Sambro, had borne down to afford relief, and found she was the Chesapeake, in the possession and control of five of her original crew, by whom they were in armed that the pirates had abandoned her, and the steamer was without coal; and Commander Clarey further stated that under the circumstances he considered it prudent to put into Halifax to place himself in communication with the British authorities and the United States government.

11. On the morning of the 18th instant the provincial secretary, by my direction, replied to Commander Clarey that I was prepared to take legal charge of the Chesapeake, but could not consent to her removal from the port without further investigation by the properly constituted authorities.

12. Immediately after the transmission of that letter information under oath was submitted to my government that an armed crew from the United States gun-boat Ella and Annie had forcibly taken possession of a schooner belonging to this port, and made prisoner a man found therein, placed him in irons, and removed him to their own ship, and that two other men, citizens of Halifax, who had joined the Chesapeake the day previously in the harbor of Sambro, were now detained prisoners on board a United States man-of-war.

13. Without a moment's loss of time a second letter was dispatched to Commander Clarey by the provincial secretary, stating that information having been received that prisoners had been made of individuals in the harbor of Sambro, a Nova Scotian port,

by men-of-war under his command, I could not permit any United States vessel to leave this port without due investigation of these allegations of the violation of international law.

14. About an hour after that letter was dispatched a letter was received from Commander Clarey, agreeing to immediately hand over the Chesapeake to the authorities directed to receive her, so soon as he was notified of the time and place, and also to deliver up one of the pirates named George Wade, who he stated was concerned in the illegal seizure of the Chesapeake, and was taken out of a schooner attempting to coal the Chesapeake, and had been identified by the witnesses who had arrived in the United States gun-boat *Acacia* that morning, also two men found on board the steamer *Chesapeake* when she was delivered to the officer in command of the *Ella* and *Annie*, and who had been identified by the party who delivered up the steamer to the said officer, as in the employ of the pirates.

15. In about an hour after the receipt of this letter from Commander Clarey, another letter was addressed by him to the provincial secretary, saying he would be glad to learn whether, after the explanation given, and the offered rendition of persons termed prisoners in the note he had received, it was consistent with the friendly relations existing between the British government and the United States government, that United States ships having come into the port of a neutral power for a purpose previously explained, and offering to render up to the proper authorities persons termed prisoners, should be detained if the officers thereof should wish to report themselves to their own government.

16. To these two communications from Commander Clarey the provincial secretary, in a letter, replied that I. J. Sawyer, high sheriff of the county of Halifax, had been commissioned to receive George Wade and the two other men referred to in Commander Clarey's first letter of that date, at the Queen's Wharf, at 1 o'clock on the next day, where they would be amenable to the action of any person desiring to proceed legally against them. That Captain O'Brien, of the revenue schooner *Daring*, had also been duly authorized to receive possession of the *Chesapeake* at 2 o'clock p. m. of the same day, where she lay at anchor, to be adjudicated upon by proper authority. That I was most anxious to preserve to the utmost of my power the friendly relations existing between the American and British governments, but could not but feel that a grave infraction of international law had been committed by the men-of-war then in the harbor bearing the flag of the United States; that irrespective altogether of the taking of the *Chesapeake* in the harbor of Sambro, a forcible entry had been made of a British schooner in that port, a man therein being made prisoner and retained in Commander Clarey's custody, together with two citizens of the place found on board the *Chesapeake*, and that without any report having been made of such grave transactions either in his personal interview with me, or in his first official report in writing, in which he had professed to explain for my information the object of his visit and the circumstances connected with taking the *Chesapeake*, nor until after a notification had been forwarded to him that applications respecting these prisoners had been made to this government. Commander Clarey was also reminded that the second letter from the provincial secretary on the 18th instant had been sent to him before the first letter of that day had been received. I then sent a telegram to Lord Lyons informing him how matters stood.

17. About noon on Saturday the letter was received from Commander Clarey, in which he stated that his first communication of the 18th instant was written and inclosed before the second letter from the provincial secretary of that day had been received by him. Commander Clarey's letter also covered a copy of the correspondence between Lord Lyons and the Secretary of State at Washington, and intimated that it might alter my determination as previously communicated.

A reply was sent without delay, after consultation with the government, in which Commander Clarey was informed that my determination respecting the delivery of the *Chesapeake* and rendition of the prisoners was still adhered to.

19. During the morning of the 19th instant, Mr. Gunnison, the vice-consul, made a requisition on the part of the United States government for the apprehension and extradition of George Wade and others charged with piracy, and causing illegally the death of Owen Shafer, upon which I issued immediately another preliminary warrant, and the mayor of the city upon the depositions of some of the original crew of the *Chesapeake* issued his warrant for the apprehension of Wade and the other parties named, which warrant was placed in the hands of the police constables to be served upon Wade after he had been released by the government commissioner who was to receive him.

20. About half-past one o'clock, the prisoners Wade and the other two men named Henry, belonging to this city, were brought on shore handcuffed, and delivered to the government commissioner, at whose request the United States officer in charge removed the handcuffs, when Mr. Sawyer, the commissioner, in conformity with the instructions received, declared the prisoners free.

21. The officer of the main guard had by my direction prevented any but peace officers and respectably dressed citizens from entering to the Queen's wharf, which is a

very large one, and from the best information I can obtain, I do not think that a hundred persons were present, and those respectable citizens, men of the commissariat stationed there, and the American boat's crew.

22. Very soon after the prisoners had been declared free, a gentleman present beckoned to two fishermen in a boat near the ship to come in, which they did, and Wade was directly after taken on board and the boat moved off. The police constable charged with the arrest immediately rushed to the water's edge and presenting a pistol threatened to fire unless they came back, when he was prevented by parties present, who seized upon him and told the boat to row off, which it did, and was soon out of sight.

23. The provincial secretary having very shortly after brought to my notice the letter from Mr. Gunnison complaining that the service of the warrant against George Wade had been prevented by the citizens of Halifax interfering with the police, a letter was instantly dispatched by my direction to his worship the mayor, desiring him to use every exertion to execute the warrant, and offering to place any force he might require at his service for that purpose.

24. The mayor replied expressing his deep regret that his officers had been unable to execute the warrant, and that although the vice-consul had in a letter notified to him that the United States government did not wish any further services from the police of this city, he should still use every exertion in his power for the service of the warrant.

25. On Saturday the 19th instant, after the Chesapeake and prisoners had been delivered up by Commander Clarey, I received from Lord Lyons a telegram informing me that when he advised me of the correspondence of the Secretary of State and himself, he was ignorant of the circumstances mentioned in my telegram to him of the 18th instant.

26. In response to my application into the cause of this failure to serve the warrant, his worship forwarded the reports of the city marshal and a policeman who was specially charged with the execution of this duty.

27. From the foregoing detail of the principal circumstances connected with this transaction and the correspondence which has taken place in relation to it, I trust it will appear that while the honor and dignity of the British Crown have been jealously maintained, I have been sedulously careful to avoid any just cause of offense to the government of the United States. Although the information furnished by the telegrams to the United States vice-consul, as has been seen, showed that Braine had exhibited a commission from the confederate authorities, a preliminary warrant was granted for his apprehension as soon as the application was formally made for it under the treaty, and it having been vaguely stated that Braine had been rescued after arrest in the country, I commissioned an inquiry into the facts, the report of which has not yet arrived.

The flagrant violation of neutral rights committed by the United States men-of-war in thus taking the Chesapeake and making prisoners, not only in our harbor, but on board a British vessel, rendered it imperative that I should demand the unconditional surrender by them both of the Chesapeake and the prisoners they had taken, and so long retained without making any communication upon the subject to the government.

The outrage upon British authority in the capture made on board one of our schooners rendered it equally necessary that I should discharge him from custody before any warrant even under the extradition treaty could be served upon him, and his escape from subsequent apprehension could not have been anticipated by me, as the place where the rendition occurred was most unfavorable for such escape.

I have, &c.,

HASTINGS DOYLE.

[Inclosure No. 1.]

Mr. Gunnison to the Provincial Secretary.

CONSULATE OF THE UNITED STATES,
Halifax, Nova Scotia, December 10, 1863.

SIR: Information having been received at this consulate of the seizure of the American steamer Chesapeake by a band of pirates, and murder having been committed, I beg to request of the government, should such vessel (or any one connected with her) enter any of the ports of this province, that she be detained, and the parties implicated arrested and held to answer any charges that may be preferred against them.

I have, &c.,

N. GUNNISON, *Vice-Consul.*

[Inclosure No. 3.]

AFFIDAVIT OF NATHANIEL GUNNISON.

HALIFAX, PROVINCE OF NOVA SCOTIA, 1863.

I, Nathaniel Gunnison, of the city of Halifax, in the county of Halifax, in the province of Nova Scotia, esquire, make oath and say, as follows:

That I am vice-consul to the American government, in this port, and as such act in the absence of Mr. M. Jackson, consul for such government.

That, on or about the 7th day of December instant, the steamship Chesapeake, an American registered steamship, plying between the cities of Portland and New York, as a freight boat, and having on board, to the best of my knowledge and belief, property belonging to British citizens, was seized by a number of persons who went on board said steamship at New York, representing themselves to be passengers, and when on board said steamship, and while the said steamship was prosecuting her voyage to Portland, and had reached the neighborhood of Cape Cod, rose up against the master and crew of the said steamship, overpowered them, took command of the said steamship, and murdered the chief engineer.

That the persons who committed these acts were in number sixteen; that one of the said number was named John C. Braine, who is now representing himself as the captain thereof, and that the said steamship, commanded by the said John C. Braine, was recently in Shelburne Harbor, in the county of Shelburne, and Petit Reviere in the county of Lunenburg, the province aforesaid, as I have been informed, and verily believe such information to be true

That the facts herein stated were communicated to me as such acting vice-consul, by telegram, and I verily believe the contents and the statements here and therein contained to be true.

That I am desirous, as such acting vice-consul, of obtaining the assistance of the government of this province, in taking such steps as will cause the said steamship to be arrested and detained, as I am informed that the said steamship is now at Margaret's Bay, in the county of Halifax, and I verily believe such information to be true.

NATHANIEL GUNNISON, *Vice-Consul*.

Sworn at Halifax, this 14th day of December, A. D. 1863, before me.

J. JENNINGS, *J. P.*

[Inclosure No. 4.]

Mr. Tupper to Mr. Gunnison.

HALIFAX, NOVA SCOTIA, December 14, 1863.

SIR: I have it in command from his honor the administrator of the government, to inform you, in reply to your communication respecting the Chesapeake, that the question has been referred to the Crown officers, and that they are of opinion that they do not see upon what grounds, as at present informed, they can legally interfere.

I have, &c.,

C. TUPPER,
Provincial Secretary.

[Inclosure No. 5.]

Mr. Harley to the Receiver General.

CUSTOM-HOUSE, LA HAVRE, December 14, 1863.

SIR: I understood this morning that a steamer lay opposite Mr. William McKenny's wharf, about five miles from this place. I went down and boarded her. The captain reported that she was a confederate war steamer, sailing under commission from the authorities of the Confederate States, which he produced.

Date of commission, November 1, 1862. Name of vessel, Retribution; tonnage, four hundred and eighty; guns, two; number of men, thirty. First Lieutenant, John C. Braine; Second Lieutenant, Henry A. Parr.

The captain, John Parker, stated that he was under the necessity of putting into harbor for a supply of fuel and other necessaries, to purchase which, he wished to land certain articles, as he had no money, which I permitted him to do, placing a competent

person on board, acting under my instructions, to see that nothing else was landed, to protect the revenue, and to receive his light duties.

As the case is a novel one to me, I feel anxious to know whether my proceedings met with your approbation, and beg leave to ask for instructions to guide me in any future similar case which may arise.

The vessel will sail to-morrow.

I am, &c.,

JOHN HARLEY, *Collector*.

[Inclosure No. 6.]

Mr. Harley to the Receiver General.

CUSTOM-HOUSE, LA HAVRE, December 18, 1863.

SIR: The Chesapeake sailed about 9 a. m. on Wednesday.

She has landed here by permit twenty-five bales of cotton, ten half-casks (three hundred gallons) of port wine, and a church bell, entered as worth one hundred dollars.

I placed a confidential person on board of her to see that nothing was landed without my knowledge, and remained on board nearly two days myself.

She sailed at 6 p. m. on Tuesday, with the ostensible purpose of going to sea, when my officer returned and reported to me about 9 p. m.

On Wednesday morning I dispatched a constable to follow her down the river, with instructions to board her, and remain if she were still in port; he returned in the afternoon, and stated that she had left as above.

The constable, who provided himself with a horse and wagon, has charged 7s. 6d. for his services.

The young gentleman who acted as my lieutenant (two days and one night) will, I doubt not, be satisfied with whatever you may think proper to award him.

The officers appeared to be solicitous to give no offense to the government, and expressed their willingness to abide by the regulations of the port.

I am, &c.,

JOHN HARLEY, *Collector*.

[Inclosure No. 7.]

WARRANT.

HALIFAX, PROVINCE OF NOVA SCOTIA, ss:

I, Hastings Doyle, administering the government of the province of Nova Scotia, to all justices of the peace and other magistrates and officers of justice having power to commit for trial persons accused of crime against the laws of Nova Scotia, send greeting: I, the said administrator of the said government of this province of Nova Scotia, acting in virtue of and in obedience to the requirements of an act of the imperial Parliament of Great Britain and Ireland, made and passed in the sixth and seventh years of the reign of our sovereign lady Queen Victoria, entitled "An act for giving effect to a treaty between her Majesty and the United States of America, for the apprehension of certain offenders," do hereby signify and make known to you that by authority of the said United States, in pursuance of and according to said treaty, which in the said act of Parliament is in part recited, requisition in writing has been made to the following effect, that is to say:

"HALIFAX, December 16, 1863.

"I, Nathaniel Gunnison, of the city of Halifax, in the county of Halifax, esquire, vice-consul of the United States of America, acting as consul in the absence of M. M. Jackson, consul, request of the government of Nova Scotia that they will give to the government of the United States all the assistance and co-operation in their power towards the apprehension of John C. Braine and the crew under his control, who have been guilty of an act of piracy in seizing unlawfully the steamer Chesapeake, an American steamship off Cape Cod, and in causing while so seizing illegally the death of Orin Schaffer, second engineer on board said steamship, by shooting him. That I request the assistance of the government of Nova Scotia by virtue of being the acting consular officer in this city and province, and upon the request of the government of the United States, communicated to me by the honorable W. H. Seward, that the said John C. Braine and his crew are offenders against the laws of the United States, and that they are now seeking an asylum in the province of Nova Scotia, in order to protect themselves, and evade the laws of the United States, and the punishment of crimes committed within

the jurisdiction of the United States, and of crimes as well against the laws of the United States as against the laws of Great Britain and her colonies and dependencies, and I now request the assistance of the government and authorities of Nova Scotia by virtue of the provisions of the treaty, commonly called the Ashburton treaty, and made between Great Britain and the United States, and I request the government and authorities of Nova Scotia to consider this as a requisition required by the said treaty from the United States government.

"NATHANIEL GUNNISON,
Vice-consul, Acting Consul of the United States Government."

And I require you and each of you within your several jurisdictions to govern yourselves accordingly, to the end that the said John C. Braine and other the persons in the said requisition accused as aforesaid may be arrested and dealt with according to the provisions of the said treaty.

Given under my hand and seal at Halifax, in the said province, this 17th day of December, A. D. 1863.

HASTINGS DOYLE,
Administrator of the Government.

[Inclosure No. 24.]

REQUISITION.

HALIFAX, NOVA SCOTIA, December 19, 1863.

I, Nathaniel Gunnison, of the city of Halifax and county of Halifax, esquires, vice-consul of the United States, acting as consul in the absence of M. M. Jackson, consul, request of the government of Nova Scotia that they will give to the government of the United States all the assistance and co-operation in their power towards the apprehension of Henry C. Braine, sometimes called John C. Braine, George Brooks, Henry A. Parr, George Sears, George Moore, Robert Cox, Gilbert Cox, James Kenny, George Wade, Robert Moore, and William Harris, of the United States of America, who have been guilty of an act of piracy, in seizing unlawfully the steamer Chesapeake, an American steamship off Cape Cod, and causing while so seizing illegally the death of Owen Shaffer, second engineer on board the said steamship, by shooting him; that I request the assistance of the government of Nova Scotia, by virtue of being the acting consular officer in this city and province, and upon the request of the government of the United States, communicated to me by the honorable W. H. Seward, that the said Henry C. Braine, sometimes called John C. Braine, George Brooks, Henry A. Parr, George Sears, George Moore, Robert Cox, Gilbert Cox, James Kenny, George Wade, Robert Moore, and William Harris, are offenders against the laws of the United States, and that they are now seeking an asylum in the province of Nova Scotia, in order to protect themselves, and evade the laws of the United States, and the punishment of crimes committed within the jurisdiction of the United States, and of crimes as well against the laws of the United States as against the laws of Great Britain and Ireland, and her colonies and dependencies, and I now request the assistance of the government and authorities of Nova Scotia by virtue of the provisions of the treaty, commonly called the Ashburton treaty, and made between Great Britain and Ireland and the United States.

I have, &c.,

NATHANIEL GUNNISON, *Vice-Consul.*

[Inclosure No. 25.]

WARRANT.

HALIFAX, ss:

I, Hastings Doyle, administering the government of the province of Nova Scotia, to all justices of the peace, and other magistrates and officers of justice having power to commit for trial persons accused of crime against the laws of Nova Scotia, send greeting: I, the said administrator of the said government of this province of Nova Scotia, acting in virtue of and in obedience to the requirements of an act of the Imperial Parliament of Great Britain and Ireland, made and passed in the sixth and seventh years of the reign of our sovereign lady Queen Victoria, entitled an act for giving effect to a treaty between her Majesty and the United States of America, for the apprehension of certain offenders, do hereby signify and make known to you that by authority of the said United States, in pursuance of and according to the said treaty, which in the said act

of Parliament is in part recited, requisition in writing has been made to the effect following, that is to say:

[See inclosure No. 24.]

And I require you, and each of you, within your several jurisdictions, to govern yourselves accordingly to the end that the said Henry C. Braine, sometimes called John C. Braine, George Brooks, Henry A. Parr, George Sears, George Moore, Robert Cox, Gilbert Cox, James Kinny, George Wade, Robert Moore, and William Harris, persons in the said requisition, accused as aforesaid, may be arrested and dealt with according to the provisions of the said treaty.

Given under my hand and seal, at Halifax, in the said province, the 19th day of December, A. D. 1863.

HASTINGS DOYLE,
Administrator of the Government.

[From British Blue Book, "North America," No. 9, 1864, pp. 8-10.]

No. 4.

Lord Lyons to Earl Russell.

[Extract.]

WASHINGTON, December 24, 1863.

I have the honor to transmit to your lordship further papers relating to the affair of the Chesapeake.

The note dated the 20th instant, which contains the formal demand of the United States government for the extradition of the men engaged in the affair, was put into my hand by Mr. Seward at the State Department yesterday, with a request that I would inform the authorities in Brunswick and Nova Scotia as speedily as possible that the demand had been made.

Mr. Seward then gave me a paper, a copy of which forms inclosure No. 3 in this dispatch. It was, he said, the decipher of a letter from a confederate agent at New York to Mr. Benjamin, the secretary of state at Richmond. Some of the proper names were, he observed, undecipherable, but the rest of the letter had been made out, and it showed there were plots to seize two other steamers besides the Chesapeake, and to make use of the neighboring British territory to further the nefarious designs of the enemy.

Mr. Seward went on to say that the statement in the letter that a large number of rifled muskets had been sent to Halifax, and other facts which had come to his knowledge, made him apprehensive that the Chesapeake might not be safe at that place. He begged me to warn the authorities, and to ask whether the vessel would be made over at once to her owners if they applied for her with the sanction of the United States government. In consequence of this request, I dispatched to Major General Doyle a telegram.

Mr. Seward said that the plots to get possession of United States steam-packets by sending confederate emissaries on board them in United States ports in the guise of passengers rendered it necessary to take extraordinary precautions at the ports, and to enforce restrictions there which might, he feared, cause some inconvenience to foreigners as well as to Americans, but the matter was too urgent and too important to admit of the neglect of any means of frustrating the nefarious designs which had been conceived.

[Inclosure No. 1 is note from Mr. Seward to Lord Lyons, December 20, 1863, printed *ante*.]

[Inclosure No. 2.]

Lord Lyons to Lieutenant Governor Gordon and Major General Doyle.

WASHINGTON, December 22, 1863.

SIR: I have this afternoon had the honor to send to your excellency by telegraph a summary of the contents of a note from the Secretary of State of the United States, demanding, in the usual form, the extradition of John C. Braine and others, concerned in the affair of the Chesapeake. I have the honor to transmit to you herewith a copy of that note. It is dated the day before yesterday, but was delivered only to-day.

I have, &c.,

LYONS.

[Inclosure No. 3.]

OFFICE OF UNITED STATES MILITARY TELEGRAPH,
War Department, Washington, December 21, 1863.

[Translation of a letter in cipher forwarded to the Secretary of War by Postmaster Wakeman, New York City.]

NEW YORK, December 18, 1863.

_____ is here. The two steamers will leave here about Christmas. Lamar and Boners left here via Bermuda two weeks ago. The 1,000 rifled muskets came duly to hand, and were shipped to Halifax as instructed. We will be able to seize the other two steamers as per programme.

_____ has followed the president's orders. We will have _____ under arrest before this reaches you; cost 000 dollars.

We want more money. How shall we draw? Bills all forwarded to Slidell and receipts received.

Write as before.

J. H. C.

Hon. J. P. BENJAMIN.

Please detach and forward as before. Telegraph when return answer is received. Very important.

A. KEITH, *Halifax, Nova Scotia.*J. H. C.,
per T.

[From British Blue Book, "North America," No. 9, 1864, p. 26.]

No. 6.

*Major General Doyle to the Duke of Newcastle.*GOVERNMENT HOUSE, *Halifax, N. S., December 24, 1863.*

MY LORD DUKE: My dispatch to your grace of the 23d instant, and of same date to Lord Lyons, a copy of which is herewith inclosed, explains fully the action of this government in relation to the Chesapeake.

2. After the steamer had left with my dispatch to Lord Lyons, I received from his lordship a telegram, dated December 22, stating that an official requisition had been made by the Secretary of State at Washington for the extradition, under the treaty, of John C. Braine, and others therein named, charged with the crime of piracy and murder on board the United States steamer Chesapeake.

At the same time I received a second dispatch, dated December 22, informing me that the United States government had intercepted a letter, which had excited apprehensions that the Chesapeake would be seized in this port by confederates, and inquiring when this government would give her up to the owners on the requisition of the United States government.

To this I replied by telegram, that my government had decided to put the Chesapeake into the court of vice-admiralty, and that she could only be given up upon the order of that court, but that proper precautions had been taken for her safety.

3. A communication having been received by the provincial secretary from the United States vice-consul, also exhibiting anxiety respecting the Chesapeake, I directed a reply to be sent to Mr. Gunnison informing him that no danger need be apprehended.

4. The legal questions connected with the Chesapeake will thus be judicially disposed of by a competent tribunal; and I have instructed the Crown officers to take the necessary steps to bring to justice the parties charged with obstructing the execution of the warrant against Wade.

I have, &c.,

HASTINGS DOYLE.

[Inclosure No. 1.]

*Major General Doyle to Lord Lyons.*GOVERNMENT HOUSE, *Halifax, December 23, 1863.*

MY LORD: The unexpected arrival of the steamer from England compels me to send, for the information of your lordship, a copy of a dispatch which I had prepared for transmission to his grace the Duke of Newcastle, instead of a full report which I had intended to prepare upon the subject of the Chesapeake and matters connected with her, especially for you. I may add that the government had decided to put the Chesa-

peake in the court of vice-admiralty here, for the purpose of obtaining a judicial decision upon every question arising in connection with her.

Your telegram, received late last evening, will be placed in the hands of my government this morning, when, after receiving their advice, based on the opinion of the Crown officers, I will reply by telegraph to the proposal you have communicated from the Hon. W. H. Seward, to have the Chesapeake delivered to the owners upon the requisition of the United States government.

As at present advised, I do not see how the Chesapeake can properly be delivered up except upon an order from the court of vice-admiralty; but I presume it will be quite competent for that court to surrender her to the assumed owners upon their giving the necessary bail to abide by the ultimate decision of this court.

I trust I need not assure your lordship of the very deep anxiety I have felt throughout this very complicated question, to keep steadily in view your lordship's opinion, that as much as dignity, humanity, and law warrant should be done to content the government of the United States, but of course no more.

I have, &c.,

HASTINGS DOYLE.

[From British Blue Book, "North America," No. 9, 1864, p. 31.]

No. 8.

Lord Lyons to Earl Russell.

[Extract.]

WASHINGTON, December 29, 1863.

I have the honor to transmit to your lordship a copy of a dispatch from Major General Doyle, acknowledging the receipt of the telegram in which I inquired, at Mr. Seward's request, whether the Chesapeake could be made over at once to her owners if they applied for her, with the sanction of the United States government.

Major General Doyle has sent me copies of his dispatch to the Duke of Newcastle of the 23d instant, and its inclosures, giving a full account of the proceedings of the United States vice-consul and naval officers, as well as of those of the British authorities in Nova Scotia. The details of the events which grew out of the arrival of the Chesapeake in the waters of that province have been brought to my knowledge for the first time by these papers. I had not been without misgivings, but I confess that I was by no means prepared to learn that the violation of the territorial rights of Great Britain by the United States naval officers had been so flagrant and so serious, or the proceedings of those officers so violent and so unjustifiable, as they are now shown to have been. Mr. Seward was absent from Washington when the papers reached me, and he has not yet returned. He is, however, expected here to-morrow, and I shall, without a moment's loss of time, confer with him upon the intelligence which I have received. I have thought it better to be silent on the subject during his absence. The prisoners taken by the United States officers on British territory have been given up by them, and the Chesapeake has been handed over to the Nova Scotian authorities. The question, therefore, which now remains is, the nature and extent of the reparation due from the government of the United States for the wrong committed by its officers; and Mr. Seward announced beforehand, in his note of the 18th of this month, that if any authority had been assumed by officers within the waters or on the soil of Nova Scotia, the government of the United States would at once express its profound regret, and be ready to make amends which would be entirely satisfactory. The case being in this position, I think that it is prudent, and that it is due to Mr. Seward, that I should discuss the matter with him in a friendly and confidential manner, before taking any further steps with regard to it.

For inclosure, (Major General Doyle to Lord Lyons, December 23, 1863,) see inclosure 1 in No. 6, from British Blue Book, *ante*.

[From British Blue Book, "North America," No. 9, 1864, p. 31.]

No. 9.

Lord Lyons to Earl Russell.

WASHINGTON, December 31, 1863.

MY LORD: With reference to my dispatch of the day before yesterday's date, I have the honor to inform your lordship that Mr. Seward returned to Washington last night, and

that I went to him this morning to confer with him upon the accounts which I had received since he left Washington of the proceedings of the United States officers in Nova Scotia in the affair of the Chesapeake. I related the events to him as they had really occurred, and said that I would not conceal from him that they had caused me a great deal of anxiety and distress. I added, however, that, bearing in mind the assurances given beforehand in his note to me of the 18th instant, I had determined to wait for his return to Washington in order to discuss the matter with him in a friendly and confidential manner before taking any further steps.

Mr. Seward said that the subject was altogether a painful one. The spirit shown by the people of Halifax in rescuing one of the "pirates," and the facts that Braine, one of the chief of them, and he believed several others, were themselves Nova Scotians, and that a large number of rifles had been sent by confederate agents to Nova Scotia, rendered it necessary for the United States government to consider seriously whether it would not be necessary to adopt extraordinary precautions with respect to intercourse with that colony. Mr. Seward added that he could not be expected to state specifically the course the United States government would take with regard to the proceedings of its officers in the case of the Chesapeake until he had had time to make himself acquainted with all the facts; that he would, however, apply himself to the subject immediately, and that I might at once state with entire confidence to her Majesty's government that the assurances which he had, by the President's order, given in his note would be acted up to.

I have, &c.,

LYONS.

[From British Blue Book, "North America," No. 9, 1864, pp. 34-38.]

No. 11.

Lieutenant Governor Gordon to the Duke of Newcastle.

[Extract.]

FREDERICTON, NEW BRUNSWICK, *January 1, 1864.*

In my dispatch of the 21st ultimo I had the honor to transmit to your grace such information as I had at that time received with respect to the seizure, by certain parties, of the United States steamship Chesapeake.

The administrator of the government of Nova Scotia has, I am aware, already transmitted to your grace a detailed report of all subsequent proceedings in reference to this vessel within the limits of his jurisdiction. It only remains for me to state to your grace what has taken place here in connection with this subject since the date of my dispatch of the 21st ultimo.

On the receipt of the intelligence of the capture of the Chesapeake in Washington, her Majesty's minister at that capital transmitted to me a telegraphic dispatch, intimating the desire of the United States government for the detention of the Chesapeake and her captors should she put into a port in New Brunswick.

On the morning of the 23d ultimo I received from Mr. Howard, the United States consul at St. John, the requisition and depositions of which I have the honor to inclose copies.

I felt no hesitation in granting the desired warrant upon the consul's requisition, and quite irrespectively of the depositions which accompanied it. It does not appear to me that my functions in such a case are in any respect judicial; and I hold that it is my duty, on the requisition of the proper authorities, to issue the warrant which empowers the local magistrates to take cognizance of cases which would otherwise be without their jurisdiction. I apprehend that it is then the duty of the magistrate to proceed precisely as he would had the alleged offense been committed within the limits of this province, and to commit for trial or discharge from custody the parties accused according as the evidence laid before him may appear to warrant. I make this observation because, although the construction of the articles of the treaty of Washington and of the imperial act of 6 and 7 Vict., cap. 76, appears to me plain and evident, I am aware that a variety of opinions are entertained on this subject, and that many persons hold, first, that the lieutenant governor and other functionaries, mentioned in the first section of the act, exercise a judicial authority and may grant or refuse the warrant according to the evidence laid before them; and secondly, that the warrant when issued is a positive order to arrest the parties named, for the purpose of delivering them up, and that the magistrate who acts under it has no discretion but to obey, and no power to examine witnesses or receive evidence to show why a committal should not take place. Both these views appear to me directly contrary to the plain language of the treaty and the act of Parliament, by which power is given me to enable the local magistrates to proceed—a power which I conceive I am bound to exercise when properly called on to

do so, and in the event of the magistrate finding that the evidence laid before him is such as would induce him to commit the alleged offender for trial had the offense been committed in this province, that I am then further bound to issue my warrant for his extradition and surrender to the judicial authorities of the United States.

While, however, I had no hesitation in granting the warrant on the consul's requisition, I entertained some doubts how far I should be justified in directing the apprehension of persons who were not even alleged to be within this province, as it appeared to me very questionable whether I could, simply as a measure of precaution against their subsequent entry into the province at some future time, issue such a document.

I had, in the mean while, learnt that three at least of the persons engaged in the seizure of the Chesapeake were in St. John, and accordingly any doubts which I might have felt on account of their absence as to the propriety of issuing the warrant were set at rest, and immediately, on the solicitor general's arrival, a warrant was prepared, founded on one issued by Sir William Colebrook, in the year 1845, when lieutenant governor of this province. Of this warrant I have the honor to inclose a copy for your Grace's information.

The warrant was sent down to St. John the same night, and on the following day two of the parties, David Collins and James Mackinney, were apprehended under a warrant issued by Mr. Gilbert, the police magistrate at St. John. Mr. Braine, who was also named in the warrant, had left St. John that morning, and is believed to have returned to Nova Scotia. Another of the parties implicated, Linns Seely, has, I understand, since been arrested in St. John.

[Inclosure No. 1.]

Mr. Howard to Mr. Tilley.

UNITED STATES CONSULATE,
St. John, New Brunswick, December 22, 1863.

SIR: I have the honor to address, through you, a communication to the lieutenant governor of the province, for the purpose of requesting that his excellency will be pleased to use the authority vested in him by the act of Parliament for giving effect to what is known as the Ashburton treaty, to the end that certain offenders may be apprehended and delivered up to justice.

You will please make known to his excellency that, as an officer of the government of the United States, I am authorized by the executive department of that government to make a requisition upon him as the officer administering the government of the province, in order that certain persons believed to be guilty of the crime of piracy may be brought before the proper officers of justice, so that the evidence of their guilt or innocence may be heard and considered.

I have therefore the honor to request that, in accordance with the provisions of the said act of Parliament, his excellency will by warrant signify that a requisition has been made for the apprehension of John C. Braine, H. C. Brookes, David Collins, John Parker Locke, Robert Clifford, Linns Seely, George Robinson, Gilbert Cox, Robert Cox, H. H. Parr, and James McKinney, and require that all justices of the peace and other magistrates within the jurisdiction of this province shall aid in apprehending the abovenamed persons, accused of the crime of piracy, for the purpose of having them brought to trial.

I am, &c.,

J. Q. HOWARD,
United States Consul.

[Inclosure No. 2.]

Depositions of Isaac Willets and Daniel Henderson.

PROVINCE OF NEW BRUNSWICK, *City and County of St. John, to wit:*

Isaac Willets, of the city of New York, in the State of New York, United States of America, captain of the steamer Chesapeake, belonging to the United States of America, and Daniel Henderson, of the city of Portland, in the State of Maine, one of the said United States, second mate of the said steamer, severally make oath and say, and first this deponent, Isaac Willets, for himself saith: That he, this deponent, sailed in the said steamer from the said city of New York on Saturday, the fifth day of December instant, about four of the clock in the afternoon, bound for the city of Portland aforesaid, with passengers and general cargo, and continued on the voyage to Portland aforesaid, and nothing material to be related occurred until Monday morning, the seventh day of December instant; when, about one of the clock a. m., on the said morning, this deponent

being asleep in his berth, the first mate of the said steamer, named Charles Johnson, came to this deponent's state-room and called this deponent, and told him that some one had shot the second engineer of the said steamer; that this deponent got up and went aft as soon as he could, and found the second engineer lying on the upper deck, with his legs hanging down the gangway up which he had come; that this deponent was in the act of stooping down to pick up the second engineer, when two persons fired at this deponent; that as this deponent was endeavoring to get to his pilot-house, several shots were fired at him, and when he opened the door to go into the said house he was collared by a person calling himself H. A. Parr, and a pistol was put to this deponent's face, and handcuffs were put on him, and they put this deponent in his room and kept him there about an hour, and then took this deponent to the cabin and kept him there until daylight, when they brought the first mate and chief engineer to the same place, both of whom had been shot, the engineer in the chin, and the mate in the knee and arm; that afterward this deponent was permitted to go about the steamer under guard as a prisoner; that this deponent could not perceive any life in the second engineer when he stooped to pick him up, and afterward the said engineer was thrown overboard; that on Tuesday morning, about seven of the clock, the said steamer came to anchor in Seal-Cove Harbor, Grand Manan; that shortly after the steamer was anchored several persons, not of the crew of the said steamer, took a boat and went ashore, and about the middle of the said day steam was got on the said steamer and she was steered toward the harbor of St. John; that about three of the clock on the said Tuesday afternoon the captors of the said steamer took this deponent into his state-room and compelled him to give up his money to them; the names of the persons who compelled this deponent to give up the said money, amounting to eighty-seven dollars, were John C. Braine, called colonel, and H. A. Parr, styled first lieutenant; that this deponent became acquainted with the names of the said John C. Braine and H. A. Parr from the order which was served by them upon this deponent, and the said H. A. Parr addressed the said John C. Braine as colonel; that about four of the clock in the afternoon of the said Tuesday, the pilot-boat Simonds ran alongside of us, and the steamer was ordered to stop, which was done, and a man came on board, who had a conversation with the said John C. Braine, and afterward returned to the pilot-boat, when John Parker, *alias* John Parker Locke, came on board of the steamer from the said pilot-boat, and then the steamer was kept on her course until she came to Dipper Harbor, when the pilot-boat was taken in tow by the said steamer, and the said John Parker, *alias* John Parker Locke, said that he would give this deponent ten minutes to get on board the said pilot-boat; that all of the crew of the said steamer went on board the said pilot-boat, with the exception of the first and third engineers and three firemen, who were retained on board the said steamer; that this deponent saw the said steamer, in charge of her captors, continue on her way toward St. John, and this deponent was brought in the said pilot-boat to Partridge Island, and from that to the city of St. John in a ship's boat, where he arrived about four of the clock on Wednesday morning, the ninth day of December instant; that John C. Braine, David Collins, George Robinson, and H. A. Parr were four of the persons engaged in the capture of the said steamer Chesapeake, whose names this deponent knows; that the said John C. Braine was styled colonel, the said H. A. Parr first lieutenant, the said David Collins second lieutenant, and the said George Robinson sailing-master, and when the said John Parker, *alias* John Parker Locke, came on board he was styled captain; that there were fifteen persons in all engaged in the said capture, and this deponent does not know the names of the remaining eleven; that the said steamer, when she was captured by the said persons, was about twenty miles north of Cape Cod, and all of the said fifteen persons came on board of the said steamer as passengers at New York, bound for Portland as aforesaid, but without tickets, and said that they had not time to procure tickets, and all but two of the said persons paid the usual passage money, and the said two promised to pay when they arrived at Portland. And the said Daniel Henderson for himself saith that he was second mate on board the said steamer Chesapeake, on her passage from New York to Portland aforesaid, on the fifth of December instant; that about one of the clock on Monday morning, the seventh instant, the door of this deponent's state-room was broken open on board the said steamer, and four persons stood in the door and ordered this deponent to get up and put his clothes on; that all of the said four persons had pistols in their hands; that after this deponent got his clothes on they handcuffed him and told him he was a prisoner to the Confederate States; that they refused to allow this deponent to see any person belonging to the said ship, but kept this deponent locked in his state-room in irons; that after this deponent had been locked in his room about ten minutes, he heard a man knocked down in the pilot-house, which adjoined this deponent's room, and then this deponent burst open the door of his room and fell on deck, when two of the captors took this deponent by the hair and dragged him into the pilot-house, where he remained until about seven of the clock on the said Monday morning; that at eight of the clock on the said morning they took this deponent to the cabin, where he was kept nearly all the time until the said steamer got to Grand Manan, when this deponent was ordered on deck to clear away the chain,

so as to let go the anchor, and from Grand Manan this deponent came to St. John aforesaid, as stated by Isaac Willets, master of the said steamer; that Orin Schaffer, the second engineer of the said steamer, was missing from the said vessel when this deponent came on the deck of the said vessel on the said Monday morning, and this deponent heard several of the said captors, among others the said H. A. Parr, say that the said second engineer was killed and had been thrown overboard; and this deponent further saith that the first mate, Charles Johnson, was shot in the right knee and the left arm, and the chief engineer, James Johnson, was shot in the chin, and retained on board the said vessel; that this deponent does not know the names of any others of the said captors, with the exception of the said H. A. Parr.

And these deponents, Isaac Willets and Daniel Henderson, both say that they are informed and fully believe that John C. Braine, H. C. Brookes, David Collins, John Parker Locke *alias* John Parker, Linns Seely, George Robinson, Gilbert Cox, Robert Cox, James McKinney, Robert Clifford, and H. A. Parr, were, among others, the captors of the said steamer Chesapeake, a steamer of the said United States, while on her passage from New York aforesaid to Portland aforesaid.

And these deponents further say that the said persons above named, being passengers on board the said steamer, took forcible possession of the said steamer against the will of these deponents and the other officers and crew of the said steamer.

The said Isaac Willets and Daniel Henderson were severally sworn to the foregoing affidavit of the 22d day of December, A. D. 1863, before me, the said affidavit having been first read over and explained to the said Daniel Henderson, he appearing perfectly to understand the same.

ISAAC WILLETS.

his
DANIEL + HENDERSON.
mark.

H. J. GILBERT,
Police Magistrate for the city of St. John.

[Inclosure No. 3.]

Warrant.



By his excellency the Honorable Arthur Hamilton Gordon, C. M. G., lieutenant governor and commander-in-chief of the province of New Brunswick, &c.

To all and every the justices of the peace and officers of justice within the province of New Brunswick, greeting:

Whereas, in and by an act of Parliament made and passed in the sixth and seventh years of the reign of her Majesty Queen Victoria, entitled "An act for giving effect to a treaty between her Majesty and the United States of America for the apprehension of certain offenders," it is among other things enacted "that in case requisition shall at any time be made by the authority of the said United States, in pursuance of and according to the said treaty, for the delivery of any person charged with murder, or assault with intent to commit murder, or with the crime of piracy or arson, or robbery or forgery, or the utterance of forged paper, committed within the jurisdiction of the United States of America, who shall be found within the territories of her Majesty, it shall be lawful for one of her Majesty's principal secretaries of state, or in Ireland for the chief secretary of the lord lieutenant of Ireland, and in any of her Majesty's colonies or possessions abroad for the officer administering the government of any such colony or possession, by warrant under his hand and seal, to signify that such requisition has been so made, and to require all justices of the peace and other magistrates and officers of justice within their several jurisdictions to govern themselves accordingly, and to aid in apprehending the person so accused, and committing such person to jail, for the purpose of being delivered up to justice, according to the provisions of the said treaty; and thereupon it shall be lawful for any justice of the peace, or other person having power to commit for trial persons accused of crimes against the laws of that part of her Majesty's dominions in which such supposed offender shall be found, to examine upon oath any person or persons touching the truth of such charge, and upon such evidence as, according to the laws of that part of her Majesty's dominions, would justify the apprehension and committal for trial of the person so accused of the crime of which he or she shall be so accused had been there committed, it shall be lawful for such justice of the peace or other person having power to commit as aforesaid to issue his warrant for the apprehension of such person, and also to commit the person so accused to jail, there to remain until delivered pursuant to such requisition as aforesaid.

And whereas, in pursuance of and in accordance with the said treaty and act, a requisition has been made to me on behalf of the said United States by J. Q. Howard, consul of the said United States, in the city of St. John, in this province, stating that John C. Braine, H. C. Brookes, David Collins, John Parker Locke, Robert Clifford, Linns Seely, George Robinson, Gilbert Cox, Robert Cox, H. H. Parr, and James McKinney, charged upon oath of Isaac Willetts and Daniel Henderson with having committed the crimes of piracy and murder on the high seas within the jurisdiction of the said United States of America, on the seventh day of December instant, all or some of them are now in the city of St. John, within this province, and requesting that the said John C. Braine, H. C. Brookes, David Collins, John Parker Locke, Robert Clifford, Linns Seely, George Robinson, Gilbert Cox, Robert Cox, H. H. Parr, and James McKinney, may be delivered up to justice according to the provisions of the said treaty:

Now know ye, that, pursuant to the power in me vested in and by the said act of Parliament, I do hereby, by this warrant under my hand and seal, signify that such requisition has been so made, and hereby require and command all justices of the peace and other magistrates and other officers of justice of this province, within their several jurisdictions, to govern themselves accordingly, and to aid in apprehending the said John C. Braine, H. C. Brookes, David Collins, John Parker Locke, Robert Clifford, Linns Seely, George Robinson, Gilbert Cox, Robert Cox, H. H. Parr, and James McKinney, so accused, and committing them the said John C. Braine, H. C. Brookes, David Collins, John Parker Locke, Robert Clifford, Linns Seely, George Robinson, Gilbert Cox, Robert Cox, H. H. Parr, and James McKinney, to jail for the purpose of being delivered up to justice according to the provisions of the said treaty; and hereof they will not fail at their peril.

Given under my hand and seal, Fredericton, in this province of New Brunswick, this twenty-fourth day of December, in the twenty-seventh year of her Majesty's reign, A. D. 1863.

By his excellency's command :

J. L. TILLEY.

[From British Blue Book, "North America," No. 9, 1864, p. 32.]

No. 10.

Lord Lyons to Earl Russell.

[Extract.]

WASHINGTON, January 4, 1864.

I have the honor to transmit to your lordship copies of further correspondence with Mr. Seward and with Major General Doyle and Mr. Gordon, relative to the affair of the Chesapeake.

send to-day to Major General Doyle copies of this dispatch, and of my dispatches of the 24th, 29th, and 31st ultimo.

[Inclosure No. 1.]

Lieutenant Governor Gordon to Lord Lyons.

FREDERICTON, NEW BRUNSWICK, December 28, 1863.

MY LORD: I have the honor to acknowledge the receipt of your lordship's dispatch of the 17th instant.

On the evening of the 22d instant I received your lordship's telegram informing me that the Secretary of State for the United States had demanded the extradition in the usual form of the parties therein named, and on the following morning I received a similar communication, accompanied by an official requisition from the United States consul at St. John.

I lost no time in directing the law officers of the Crown in this province to prepare the form of a warrant under the act 6 and 7 Vict., cap. 76, for the apprehension of the parties named. Unfortunately the attorney and solicitor general were both absent from Fredericton, and some delay necessarily ensued in consulting them. It was not till late on the evening of the 24th that the warrant was prepared; as soon as it was signed I sent it down by express to St. John. Mr. Braine, however, (the only one of

the parties implicated who, so far as I am aware, was known to be in this province,) is stated to have left St. John that morning.

Every exertion will no doubt be made to insure his arrest under the warrant just issued should he remain in this province.

I have, &c.,

ARTHUR H. GORDON.

[Inclosure No. 2 is a note from Lord Lyons to Mr. Seward, January 4, 1864, printed *post.*]

[Inclosure No. 3.]

Lord Lyons to Lieutenant Governor Gordon.

WASHINGTON, January 4, 1864.

SIR: I have the honor to acknowledge the receipt of your excellency's dispatch of the 28th ultimo, and to transmit to you a copy of a note in which I have informed the Secretary of State of the United States that you have issued a warrant for the arrest of the persons implicated in the affair of the Chesapeake, whose extradition has been demanded by this government.

I have, &c.,

LYONS.

[Inclosure No. 4.]

Lord Lyons to Major General Doyle.

WASHINGTON, January 4, 1864.

SIR: I had, on the 26th ultimo, the honor to receive your excellency's dispatch of the 23d ultimo, inclosing a copy of a dispatch which you had addressed on the same day to the Duke of Newcastle with regard to the affair of the Chesapeake. I beg your excellency to accept my best thanks for the full information which you have been so good as to send me respecting this affair.

The Secretary of State of the United States has repeatedly promised me that the assurance given in his note of the 18th ultimo shall be acted up to.

I have, &c.,

LYONS.

[Inclosure No. 5.]

Lord Lyons to Major General Doyle.

WASHINGTON, January 4, 1864.

SIR: I have the honor to transmit to your excellency copies of four dispatches which I have addressed to Earl Russell with regard to the affair of the Chesapeake.*

These papers will make your excellency fully acquainted with the communications which I have had on the subject with the United States government since I had the honor to write to your excellency on the 21st ultimo.

I have, &c.,

LYONS.

Lord Lyons to Mr. Seward.

WASHINGTON, January 4, 1864.

SIR: I have the honor to inform you that I have received a dispatch from the lieutenant governor of New Brunswick, informing me that he has issued a warrant for the apprehension of the persons whose extradition is demanded by your note to me of the 20th ultimo, and that every exertion will be made to insure their arrest should they be found within his jurisdiction.

I have the honor to be, with the highest consideration, sir, your most obedient, humble servant,

LYONS.

HON. WILLIAM H. SEWARD, *Sec., &c., &c.*

*See Nos. 4, 8, 9, and 10 from British Blue Book, *ante.*

Mr. Seward to Lord Lyons.

DEPARTMENT OF STATE,
Washington, January 5, 1864.

MY LORD: I have had the honor to receive your lordship's note of the 4th instant, by which I learn that his excellency the lieutenant governor of New Brunswick has issued a warrant for the apprehension of the persons whose extradition has been demanded by me upon a charge of complicity in the piracies committed on board the Chesapeake, and that due exertion will be made to secure their arrest if found in that province.

Your lordship will please accept my acknowledgments for this gratifying information, so honorable to the administration of his excellency and to the government he represents.

I have the honor to be, with high consideration, my lord, your obedient servant,
WILLIAM H. SEWARD.

Right Hon. LORD LYONS, &c., &c., &c..

Mr. Seward to Mr. Adams.

No. 805.]

DEPARTMENT OF STATE,
Washington, January 7, 1864.

SIR: Telegraphic information has been received here from the United States consul at Halifax that the authorities there have decided to require proceedings in admiralty on behalf of the owner of the steamer Chesapeake, in order that they may obtain restitution of the vessel. This decision has occasioned surprise and disappointment here. It was hoped that, as the Chesapeake was wrested from the owner by a flagrant act of piracy, she would have been restored to them by the colonial executive, without requiring the illegality of the seizure to be judicially proved. You will consequently protest against the decision adverted to.

I am, sir, your obedient servant,

WILLIAM H. SEWARD.

CHARLES FRANCIS ADAMS, Esq., &c., &c., &c.

Mr. Seward to Mr. Adams

No. 807.]

DEPARTMENT OF STATE,
Washington, January 11, 1864.

SIR: The investigation which has been made in the case of the Chesapeake has yielded indisputably these results, viz: that the crimes committed in her capture were contrived and prepared by the actors within the provinces of Nova Scotia and New Brunswick, by persons some of whom were British subjects, and all of whom had asylum there; that, in pursuance of the original plan, the vessel, with its freight, was found within British jurisdiction, having been taken by pirates into British waters to save them from just and lawful pursuit by the authorities of the United States; that the merchandise, chiefly of flour, sugar, and iron, which constituted that freight, was openly and boldly sold at wasteful prices by the pirates to British subjects resident in the aforesaid provinces, who had full knowledge that the same had been obtained by piracy, and who, by such purchase, became parties in that crime; that, although all the pirates took refuge within British jurisdiction, no process has been issued for their arrest or that of their accomplices, nor any pursuit of them instituted, except on the application of this government, and that when three of them were arrested within British jurisdiction and secured by agents of the United States, their arrest by the British authorities was prevented and defeated by a mob of the citizens of Halifax. I have already, by the President's direction, instructed you to represent to her Majesty's government that the United States are aggrieved by the refusal of the authorities of Nova Scotia to surrender the steamer Chesapeake to her owners. I have now to add to that instruction a further one, under which you will represent to Earl Russell the grievances especially set forth in this dispatch. The President does not allow himself to doubt that her Majesty's government will disapprove of these illegal proceedings and order restitution in the premises. He thinks that the occasion is a fitting one for directing the notice of that government to the painful fact that, while it has proclaimed neutrality in regard to the civil war in the United States, the insurgents are continually receiving direct aid and co-operation from British subjects in several seaports of the realm, and hostilities are also carried on against the United States by British

subjects, under the cover of that neutrality, from British provincial ports, throughout a line extending from the Bahamas through the Atlantic ports of British North America, and reaching to the Cape of Good Hope. I forbear from adding to what I have recently had occasion to say concerning the cause of these proceedings, their tendency, and the necessary remedy.

I am, sir, your obedient servant,

WILLIAM H. SEWARD.

CHARLES FRANCIS ADAMS, Esq., *&c.*, *&c.*, *&c.*

Mr. Seward to Lord Lyons.

DEPARTMENT OF STATE,

Washington, January 13, 1864.

MY LORD: Referring to my note of the 20th ultimo relative to the extradition of John C. Braine, H. A. Parr, John Parker Locke *alias* Vernon G. Locke, David Collins, George Robinson, John Wade, and others, fugitives from the justice of the United States, then supposed to have taken refuge in the British province of New Brunswick, or of Nova Scotia, I now have the honor to inform you that it is possible that the fugitives above named, especially John C. Braine, may have taken refuge in Canada. I will consequently thank you to take the necessary measures for their delivery up by the Canadian authorities in pursuance of the 10th article of the treaty of Washington.

I have the honor to be, with high consideration, your lordship's obedient servant,

WILLIAM H. SEWARD.

Right Hon. LORD LYONS, *&c.*, *&c.*, *&c.*

Lord Lyons to Mr. Seward.

WASHINGTON, *January 16, 1864.*

MY DEAR SIR: I send you herewith the papers relative to the affair of the Chesapeake, which I showed you this morning. I have added a copy of a letter from the mayor of Halifax to the provincial secretary.

The papers inclosed comprise, therefore, an extract from a dispatch from General Doyle, administrator of the government of Nova Scotia, to me, dated 6th instant, a copy of a telegram from General Doyle to me, dated 14th instant, and a copy of a letter from the mayor of Halifax to the provincial secretary, dated 30th December last.

Believe me to be, my dear sir, your very faithful, humble servant,

LYONS.

Hon. WILLIAM H. SEWARD, *&c.*, *&c.*, *&c.*

Major General Doyle to Lord Lyons.

GOVERNMENT HOUSE,

Halifax, Nova Scotia, January 6, 1864.

MY LORD: I have the honor to acknowledge the receipt of your lordship's dispatch of December 22, communicating the application of the Hon. W. H. Seward, Secretary of State at Washington, for the extradition, under the treaty, of John C. Braine, H. C. Parr, John Parker Locke *alias* Vernon G. Locke, David Collins, George Robinson, John Wade, and others, but upon which no action has been taken, as I had previously granted my preliminary warrant for the apprehension of the same persons upon the requisition of the vice-consul of the United States at this port.

I beg, also, to inclose herewith a corrected copy of my dispatch of the 23d ultimo to his grace the Duke of Newcastle, to be substituted for the copy previously forwarded to your lordship, as some slight alterations were made in that document before it was forwarded to England. I also transmit, for your information, my second dispatch of the 24th of December, forwarded to his grace by the same post.

As your lordship has been already addressed by telegraph, my government having decided to put the Chesapeake into the court of vice-admiralty precluded the adoption of any suggestion to dispose of her by the direct action of the government.

Surrounded as this matter is with complicated legal questions, the course thus taken to secure the decision upon them of a judicial tribunal will, I doubt not, meet with your approval.

Although no apprehension on the part of my government existed as to the safety of the Chesapeake from any attempt to interfere with her, I felt it my duty to take every precaution to put that beyond doubt by placing an armed party on board and mooring her securely in Halifax dockyard.

The advocate general has been engaged in completing the necessary papers, and she was this day handed over to the court of vice-admiralty.

I have further to inform your lordship that, having learned that goods had been landed from the Chesapeake in the country districts in this province, I dispatched duly commissioned revenue officers in search of them, and they have seized all that could be found and sent them to this port, where they are now warehoused, and will abide the decision of the court.

As your lordship has been already advised, I issued a commission to investigate the charge contained in a telegram to the vice-consul here, to the effect that Braine had been arrested at Petite Rivière, but rescued by the people. The report of this commission proves that statement was inaccurate, as Braine had not been served with any legal process on the occasion referred to.

Up to the present time none of the parties against whom warrants were issued have been apprehended in this province, although every facility has been rendered by my government for that purpose.

In accordance with my previous letter to his worship the mayor of this city, offering any assistance the civil power might require, that officer made application to me to aid him with a military force, a few days since, when Braine was expected here by the railway train. This was promptly granted, and every means taken to secure him, but in vain, as he was not found. (*Vide* accompanying copies of letters from the mayor.)

The parties accused of having prevented the arrest of Wade were summoned to appear before the proper authorities with a view to requiring bonds for their appearance to answer that charge at the first sitting of the supreme court in April next; upon their application for time for defense the case was remanded until Monday, the 11th instant.

In conclusion, I beg to say that I will keep your lordship informed of any additional facts that may transpire in connection with this matter.

I have, &c.,

HASTINGS DOYLE.

General Doyle to Lord Lyons.

[Telegram.]

HALIFAX, January 14, 1864.

The examination of witnesses for the Crown against Drs. Almen and Smith, and Mr. Keith, accused of having assisted Wade to escape, occupied from twelve until half past seven, on the 11th instant, and the facts were brought out too clearly for misapprehension. The substance of Lieutenant Reyne's report, which is in your possession, was proved in every particular.

First. The civilians on the Queen's wharf, which is a very large one, were not in all forty, (40,) and all of respectable position.

Secondly. Not a shadow of evidence of concert or premeditation to obstruct arrest of Wade.

Thirdly. Only the three gentlemen above named at all implicated; the latter two in the slightest degree possible, and after a struggle between Dr. Almen and the constable had commenced.

Fourthly. No arrest made. The obstruction: Dr. Almen calling a boat proceeding in the stream, and interfering with constable's pistol when presented against the boat. All three above named bound over to stand their trial at the first sitting of the supreme court, I waiting until recognizances were completed (which they were not until yesterday) to telegraph to you.

HASTINGS DOYLE,
Major General and Administrator.

The mayor of Halifax to Mr. Tupper.

MAYOR'S OFFICE, HALIFAX,
December 30, 1863.

SIR: I have the honor to request that you will convey to his honor the administrator of the government my thanks for the military aid so promptly afforded me yesterday in the intended arrest of John C. Braine.

I regret to say that the effort was unsuccessful, although no precautions were omitted

for securing the object in view. I directed two policemen to proceed with the warrant to the Bedford station, (about nine miles from the town,) and to return to town by the evening train from Truro. If Braine should be a passenger, they were to arrest him and hand him over to the city marshal, who was directed to be at the terminus with a strong force to receive him.

I was present myself on the arrival of the train, as was also the city marshal with the whole available police force, aided by a military party of sufficient strength to overcome any attempt at interference, should such have been contemplated.

I had requested the American consul to send some person to accompany the police who could identify Braine, and an engineer and fireman of the Chesapeake were accordingly sent for that purpose.

No passenger, however, could be found in the train, after a most thorough search, bearing any resemblance to Braine.

As it was possible that, for the purpose of misleading the authorities, he might have exchanged at one of the country stations from the Truro to the Windsor train, I thought it prudent to await the arrival of the latter, but with equally unsuccessful results.

I have, &c.,

P. CARTERET HILL, *Mayor*.

Mr. Seward to Lord Lyons.

DEPARTMENT OF STATE,

Washington, January 18, 1864.

MY DEAR LORD LYONS: I have received your lordship's papers relating to the case of the Chesapeake at Halifax, described as follows: An extract from a dispatch from General Doyle, administrator of the government of Nova Scotia, to you, dated the 6th instant; a copy of a telegram from General Doyle to you, dated the 14th instant; and a copy of a letter from the mayor of Halifax to the provincial secretary, dated the 30th of December last.

It gives me pleasure to acknowledge that the proceedings of the governor general of Nova Scotia in regard to this matter seem to have been conducted in good faith toward his own government as well as toward that of the United States.

It appears to the President, however, that the governor general, as the executive officer of the province of Nova Scotia, under the circumstances of that extraordinary case, ought to have relinquished to the agents of this government the stolen vessel and the pirates found on board of her, subject to the express engagement of this government to answer to the British government any claim that it might have either upon the ship or the men. It will be fortunate, indeed, if the delays which have resulted from the opposite course adopted by his excellency do not encourage the same or other offenders to the commission of new crimes against the peace and dignity of both countries. We shall await the termination of the judicial proceedings which have been instituted in the case with deep interest, and it can hardly be necessary for me to say that, in the view of this government, no adverse decision of the provincial tribunals can modify the claim of the owners of the vessel and cargo to the full restitution which has been asked by this government.

I am, my dear Lord Lyons, faithfully yours always,

WILLIAM H. SEWARD.

Right Hon. LORD LYONS, *&c., &c., &c.*

[From British Blue Book, "North America," No. 9, 1864, p. 46.]

No. 18.

Lieutenant Governor Gordon to the Duke of Newcastle.

[Extract.]

FREDERICTON, *January 18, 1864.*

I have the honor to transmit for your grace's information the inclosed report of the examination before the police magistrate at St. John of the individuals charged with being concerned in the alleged piratical seizure of the United States steamer Chesapeake.

I hope the course which I have pursued may meet with the approval of her Majesty's government; and I have much gratification in finding from a dispatch from Lord Lyons, of which I inclose a copy, that the government of Washington are fully satisfied with the action taken in at once authorizing the arrest of the parties implicated.

I have received information that, in the event of the conviction of the accused, an attempt to rescue them may possibly be made. I need hardly assure your grace that I shall take effectual means to prevent the possibility of such an occurrence should it appear that there is any reason for apprehending the design to be seriously contemplated.

[Inclosure No. 1.]

EXAMINATION BEFORE THE POLICE MAGISTRATE, ST. JOHN'S, NEW BRUNSWICK, OF PERSONS ACCUSED OF SEIZING THE STEAMER "CHESAPEAKE."

Examination of Lieutenant Collins and privates McKinney and Seeley, at the police court, yesterday.

ST. JOHN, January 5, 1864.

Eleven o'clock yesterday was the hour fixed for the examination or "trial" of Lieutenant David Collins and privates — McKinney and Linus Seeley, before the police magistrate, H. T. Gilbert, esq., arrested on a requisition from the American consul in this city, on the charge of piracy and murder on an American vessel. But long before eleven the court was crowded to suffocation, and the policemen were compelled to hold the doors to prevent further ingress. There were many barristers, merchants, editors, and other "leading citizens" present, and the deepest interest was manifested in the proceedings. Messrs. Wetmore and Tuck appeared on behalf of the federal authorities, and Messrs. Gray and C. W. Weldon for the confederates.

Before the case opened, Mr. Gray asked Mr. Wetmore to elect upon which charge he would now proceed, and to state in whose name he was proceeding. Mr. Wetmore replied that he would only state that he was proceeding upon the complaint of Isaac Willets. He first said he would take up the charge of murder, and subsequently decided to proceed with that of piracy, in the first instance. Mr. Gray then objected:

1. That the court has no power or jurisdiction to try for the offense of piracy. That for the trial of piracy a special commission must issue and a court be specially constituted for the purpose; and that such court is distinctly provided for by the imperial act.

2. That the warrant was insufficient. It does not show upon the face facts which are essential, under the treaty with the United States, to bring this matter into the courts of this province, or to create the special jurisdiction which enables us to arrest parties under those charges. [Mr. Gray cited the case of Dillan, charged with an offence on the sea beyond provincial jurisdiction, (stabbing, we think it was,) who was arraigned before Judge Parker and discharged. And Mr. Weldon cited the case of the brig Eliza, in 1847.]

3. Not only is the warrant insufficient on these grounds, but on the face of it is bad, as charging two distinct offenses triable before two different tribunals. There ought to be two warrants.

Mr. G. thought these objections fatal to any proceedings. Mr. Wetmore replied at some length, and read a large portion of the provincial act passed to give effect to the extradition treaty. He claimed that everything so far was regular, and that the magistrate could not go back of the warrant, which was sufficient authority for him. The magistrate told Mr. Gray that there was probably something in his argument; but that at present he would proceed with the preliminary examination, and if he decided before the case was through that he had no jurisdiction he would give the prisoners the benefit of it.

Mr. Wetmore for the prosecution called Isaac Willets, the captain of the Chesapeake before her capture by Braine.

Evidence of Captain Willets.

Captain Isaac Willett sworn: Am a citizen of the United States; live in Brooklyn. A seaman for thirty years. Know the Chesapeake, owned by H. B. Cromwell, also a citizen of the United States. Was master of her in December, and had been for seventeen months. She was rebuilt in New York about three years ago. Previous to that she was called the Totten. [Mr. Wetmore asked where she was registered. Both Messrs. Gray and Weldon jumped to their feet and objected to the question. The magistrate agreed with them.] During these seventeen months the vessel plied between New York and Portland. She had a coasting license. [Mr. Gray objected to any evidence respecting contents of this license; objection sustained.] He had the paper until it was taken away from him on board the ship. On the 4th and 5th of December I had charge of the Chesapeake, then lying in North River taking in cargo for Portland. Most of the freight was taken in on the 5th, Saturday. She carried passengers also. I saw these three prisoners on board on the trip in question. Saw them first

about supper time, about 6 o'clock in the evening. We left New York on the 5th December; I was in the wheel-house when the vessel left the wharf. They did not buy tickets; paid their money on board. I identify Collins and recognize the others. I wrote their names on a piece of paper and gave it to the stewardess to arrange rooms for them. [Wetmore asked names of the other persons on board. Gray objected; objection overruled.] There was a person who called himself John C. Braine; said he was a colonel. Understood there was a person named Brooks. Don't recollect the names of Seeley and Clifford. All the passengers paid their passage except two. We proceeded direct to Portland from New York; do not call. The vessel, a propeller, was worth from sixty thousand to seventy thousand dollars. There was an assorted cargo, flour, sugar, wine, and such like. Do not recollect the owners. Do not know its value. Probably eighty thousand or one hundred thousand dollars.

There was no disturbance until Monday morning, 8th. We were then about twenty miles north-northeast of Cape Cod. Cape Cod is in the United States. About a quarter past 1 in the morning, the first thing I knew the chief mate, Charles Johnson, came to my room and called me, saying somebody had shot the second engineer, Orin Shaffer. I turned out of my room and went to see how badly he was shot, and had hardly time to get out of my room before I was shot at. I was at the engine-room door, on the upper deck, where my room was. I found the body of the second engineer lying on the deck; it's more than I could tell whether he was alive or dead; he appeared to be dead. I was in the act of stooping down to raise him up, when I was shot at twice. I then walked forward and was shot at again. I supposed to be from a pistol; next day I saw two places in the floor where pistol balls had gone through right by where I was. I can't tell who shot at me. I only saw two persons then. I cannot identify either of these prisoners as the parties. I saw no marks of violence on the engineer, but I saw marks of blood where his head lay. When I walked forward I was going into the pilot-house, when I was collared and a pistol was put to my face by First Lieutenant H. A. Parr, who was in the pilot-house. He collared me and said I was his prisoner in the name of the southern confederacy. Parr put the irons on me, two or three others stood beside him. They seemed to be standing there doing nothing. He put handcuffs on each wrist. The irons could be made small or large. They put me into my own room; I could have come out when I pleased. No use for them to lock the door. I don't know what became of the body of the chief mate, except what I heard from the others. I was confined an hour, when Parr and sailing-master Robinson came to me. They didn't say much, but took me into the cabin; there I saw some of the other passengers who were not concerned in the affair. While I was here the chief mate Charles Johnson and chief engineer James Johnson were brought in wounded; I had heard reports of fire-arms. The mate was wounded in the right knee and left arm. The wounds appeared to be made by pistol shots. I saw the leaden ball taken out of the mate's arm. He suffered considerably from the knee, not so much from the arm. Lieutenant Parr took the ball out of the arm. The chief engineer was wounded by a bullet in the hollow of the chin. Parr said he would get the balls out of them if he could, and fix the wounds. The chief mate laid on a lounge until he was put on board of the pilot-boat. I remained in the after cabin until 8 next morning. The irons were then taken off and Robinson went up to my room on deck with me; I was in the room a few minutes and returned to the cabin. When on deck I saw Collins and Seely there; Seely was scrubbing brass on one of the timber heads; the others did not appear to be doing anything in particular. Colonel John C. Braine took my ship's papers from me in the afternoon before I was landed in the pilot-boat. Braine seemed to have command of the vessel; she was taken from me by these parties against my will and consent. I saw McKinney on board the vessel. They seemed to be about the vessel and appeared to be eating the grub up as fast as possible. Don't recollect of seeing McKinney doing anything. The person who was navigating the vessel was named Robert Osburne, a passenger, one of the six who bought tickets in New York. None of the parties named in the indictment had tickets. The first land we made after they took possession was Mount Desert. I asked them where they were going; they said Grand Manan; I asked where they intended to land me; they said St. John. Mount Desert is on the American coast, east of Portland. I would not see it if I were prosecuting a voyage from New York to Portland. After passing Mount Desert we saw land east of that place. We proceeded to Seal Cove Harbor, Grand Manan. The boat was lowered, three or four men went ashore, remained a little while and came on board again, when the steamer left and came up the bay to St. John. Next I was taken up to my room by Braine and Parr; Parr made a copy of Braine's instructions and Braine gave it to me. He ordered me to give up the coasting license, the permits for the cargo, and the money I had collected from Braine for his party, in all \$87. He asked for the money he had paid over to me; it was my employer's; I knew it would be worse for me if I did not; I handed it over against my will; Braine had a pistol in his hand at the time; I handed money, ship's papers, and permits to him. The "papers" were the ship's "coasting license" from the New York custom-house, under which she was coasting at the time, as required under the American law. After this

they took me away from the room and took me aft (Braine and Parr) and ordered me to stay there. We then saw a pilot-boat. We were on our way to St. John. The pilot-boat ordered us to stop; some one came on board the steamer from her, staid a few minutes and returned. Then Captain John Parker came on board and apparently took command. They then took the pilot-boat in tow and steamed up to Dipper Harbor. All of the passengers and crew, except two engineers (James Johnson and Auguste Striebeck) and three firemen, (Patrick Conner was one,) were put on board the pilot-boat. The firemen and engineers were kept against their will. Those who went on board the pilot-boat were myself, Charles Johnson, chief mate, Daniel Henderson, three boys and four sailors, whose names I do not recollect, the stewardess, and five passengers. One of the passengers belongs some thirty miles back of St. John, the other four belonged to Maine. These five passengers had tickets. Robert Osburn remained on board the Chesapeake; he also had a ticket. The steamer towed the boat some five or seven miles and let go of us; we were put on board the boat about 5 in the evening; that was the last we saw of the steamer. I landed in St. John about 4 on Wednesday morning. I got a boat from a big ship near Partridge Island and came to town with four of my men and two passengers. From the way the parties acted on my steamer I was afraid of my life. Everything was taken against my will. I saw one or two of these prisoners on watch; they were on deck. I supposed they were on watch. They seemed to be acting as other men would who were on watch. Braine's party assisted him in charge of the vessel. As far as I know these men were assisting him. I did not see them making sail, or shoveling coal. I don't recollect of seeing Collins or McKinney doing anything except being on deck.

Cross-examined by Mr. Gray: I don't deny there has been war in my country for two or three years between those calling themselves Confederate States and the so-called United States.

[Mr. Wetmore objected to this as an improper way of proving a state of war. The magistrate did not think this evidence could be shut out.]

I can't remember how many States are called the Confederate States—Virginia, North Carolina, South Carolina, Georgia, Alabama, Mississippi, (about one-third of the latter.) Abraham Lincoln is President of the United States, and Jeff. Davis President of the Confederate States. I never heard of Mr. Benjamin, confederate secretary of war. I have heard they say they have a government. I have read Lincoln's proclamations of war against the South, ordering them to destroy the property of the South, but I do not recollect its contents. I never took notice of it to—

[Here the witness was stopped.]

Parr did put a pistol to my head in the pilot-house, and said he took me prisoner in the name of the southern confederacy. They put the irons on me rather hard. They did not say anything about taking the vessel in the name of the Confederate States then. After they took the handcuffs off there was always a guard with me when I went about. I did not see any act of violence toward the passengers after the capture of the vessel. The handcuffs were also removed from the officers. I left a copy of the instructions which Braine left with me in New York.

[Mr. Gray asked the captain the substance of these instructions; Mr. Whetmore objected. Mr. Gray argued the point, and then read from manuscript a copy of Captain Parker's order to Braine, (which Captain Willett had published in the New York Herald and other papers,) and asked the captain if the copy was correct. The witness said it was nearly correct. The name of the sailing-master in the copy handed him by Braine was George Robinson, not Tom Sayers; the name of the engineer was not given in it, and the number of the men stated was eleven, not twenty-two. In other respects Mr. Gray's copy was correct.]

The confederates kept of my private property one double-barrelled gun, one single-barrelled gun, five five-barrelled revolvers, and one six-barrelled revolver. (I did not come out of my room "in what they call my shirt tail.") They kept me aft and plundered my room. They took three coats. I missed them when I commenced to pack up. I brought ashore my clock, eight charts, sextant, and three books. The passengers also brought ashore their own things. I did not see Braine give the passengers money to take them back to New York. The crew brought part of their things ashore. They put us into the pilot-boat six or seven miles this side of Dipper Harbor. I did not see and do not know that the confederate flag was raised over the vessel. They fired two shots at me, and I don't know how many more. The first two shots were fired at twelve feet. They must have been bad shots. The Chesapeake had two six-pounders forward, and of ammunition half a keg of powder; no cutlasses. The confederates who cut out the Caleb Cushing at Portland were sent to Fort Warren; I have heard so. The Chesapeake was engaged in retaking the Caleb Cushing. I saw the confederates who were then taken; they were sent to Fort Preble. I do not know that those confederates were ever tried as pirates or in any other way. Only Lieutenant Parr told us that their party was acting for the Confederate States. They all seemed to be working together, and were working under Parr and Braine. I was not at Sambro, and did not see the steamer after I got into the pilot-boat. None of my crew to my knowledge were kept

in irons the next day—the day after the capture. I never saw or heard of Braine or Parr before.

Re-examined by Mr. Wetmore: I have heard the confederates called rebels in the northern States generally. The Caleb Cushing was lying at a wharf in Portland Harbor when captured. Braine was called colonel; the parties all seemed to be working together. I cannot tell whether Braine paid the passage of these three men, the prisoners.

Both sides having exhausted the evidence of the captain, the case was adjourned until Wednesday morning. During the forenoon there were one or two attempts at applause by spectators, especially when Mr. Gray referred to the fact that if the prisoners were committed by the magistrate they would be delivered up to the federal authorities to be tried for their lives in that country, and under laws in the making of which they have had no voice. The magistrate very properly and promptly rebuked the offenders. It is to be hoped that nothing will occur to interfere even in the slightest degree with a thorough and impartial investigation into the charges made against the men now in custody.

ST. JOHN, January 7, 1864.

Yesterday morning, shortly after 11 o'clock, the examination of Messrs. Collins, McKinney and Seely before the police magistrate was continued. The court room was crowded with spectators as on the first day, and many persons went away unable to obtain admittance. The only witness examined was Mr. Daniel Henderson, who was second mate of the Chesapeake before her capture. We annex a verbatim report of his testimony:—

Evidence of Daniel Henderson.

Daniel Henderson sworn: I reside in Portland, Maine. Am an American citizen. Have been a seaman for eleven years. Have been recently employed in Portland and New York—the Chesapeake was my last vessel, running between these ports carrying freight and passengers. Have been in her ten months on this route. About five years ago I was in her for two or three years; she then ran between New York, Baltimore, Charleston, and Savannah, and sometimes Portland. She was then named the Chesapeake; had previously been named the Totten. Was then owned in New York. Is owned by Henry B. Cromwell, an American citizen. I know nothing about her register; never saw her coasting licenses. I was second mate of the Chesapeake. The first mate was Charles Johnson. James Johnson was first engineer, and Orin Shaffer second engineer. There were eighteen of a crew in all, with the stewards.

I was on board the Chesapeake on Friday and Saturday, the 4th and 5th of December. She was then lying at pier nine, North River, New York, taking in cargo for Portland. We left New York for Portland on Saturday December 5th about 4 o'clock p. m. We generally make the passage in thirty-six or thirty-seven hours, according to the weather. On the 5th of December we had passengers and freight on board; there was considerable cargo of cotton, wine, &c.—pretty nearly full. The Chesapeake is between four hundred and five hundred tons. The cargo was a pretty valuable one; can't say how valuable cargo or vessel was. We had twenty-two passengers; I don't know their names. I heard some names mentioned on board—Braine, Lieutenant Parr. That's about all the names; I also heard Collins's name. I had seen Braine before. He came about two weeks before that as a passenger on the Chesapeake from New York. He said he was from London. He had a wife and child with him at that time. There was nobody shot on board the steamer that time. I saw the three prisoners on the trip on the 5th December. They came on board as passengers. I did not notice any of the passengers when they came on board. Sometimes we have seventy, sixty, fifty, or forty, or thirty passengers—twenty-two was not an unusual number, and excited no suspicion. When the steamer starts I am generally cleaning up, making sail, &c. I have nothing to do in the pilot-house, except when it is my watch—that is, from 8 to 12 at night. On the night of the 5th I was in the pilot-house at those hours; I recognized Braine around the house that night. Nothing unusual occurred on board that night. It was a very dark night; there were rain squalls, and it was very cloudy. At 12 I called the mate, Charles Johnson; his duty was to look after the ship as I had been doing. His watch was from 12 till 8 in the morning. His place was in the pilot-house or on deck, just as he chose. I went to bed at 12 o'clock. My room was next to the pilot-house, right abaft, on the upper deck. On Sunday night I took my watch from 8 to 12, and went to bed at 12. I was in bed about an hour and a half, when four men came to my room and broke in the lower panel. I was asleep at the time. They opened the door right out. [Here Mr. Gray objected to the witness stating "what these four men did" until he identified the prisoners as of the party. The magistrate allowed the witness to proceed.] I can't say that either of these prisoners were the men. Two of them were officers; their names I do not know. They held their four pistols right over me—right at me—in the bed, and told me to turn out and put my clothes on. The pistols

were all revolvers. I couldn't say whether they were cocked—I should think they were loaded. They then made me put up my hands, and they put handcuffs on me. I asked them if I couldn't see the captain or somebody belonging to the ship. They said no, I couldn't see nobody. When they put the handcuffs on me they said I was a prisoner of the Confederate States. Nothing further was said at that time. They then locked me in the room. I was there about ten minutes when I heard a noise like a man falling at the pilot-house door. I shoved my door out, and fell down on deck. Then two men, whom I would not know, caught right a-hold of me and shoved me into the pilot-house and left me there. I was there about twenty minutes when Braine came in, and I heard him say the second engineer was killed and hove overboard. He went right out again. I was there till 7 o'clock in the morning. Braine and others came in once in a while. Seely, whom I recognize, came in twice. A big tall fellow, with sandy-colored whiskers, whom I do not know, and whose name I did not hear, was steering. He was not one of our crew. I did not see either of the other prisoners in the pilot-house. Seely came in to warm himself. He was keeping watch forward. I was sitting down in the corner of the pilot-house. Seely said nothing except that he wanted to warm himself. Some of the officers (confederates) came to me about half-past 7 Monday morning and asked me where the paints were kept, and told me I must go down and show them the place. I went down. One of the confederates, whom I would know if I saw, went with me. He had a pistol; I never carry arms. I showed them where the paints were. He said he wanted to paint the ship's name out and the yellow streaks off the smoke-stack. I asked him to take me out of irons; he said not, and put me in the pilot-house again. I remained there till 8 o'clock a. m. The same big man was at the wheel. I saw the prisoner, McKinney, standing outside the pilot-house, doing nothing. Seely was keeping lookout all the time. I had not seen Collins up to this time. One of the officers came to me a little after 8 o'clock and took the irons off me and took me to the passengers' cabin on the second deck. I saw the mate there, wounded in the right leg and left arm; he was lying on a mattress. The ball had been taken out of his arm, but they could not get it out of his leg. The engineer was also there wounded in the cabin. I staid there till breakfast time. I asked Braine if I could stay there and attend to the first mate. He said he would see after a while, and afterwards said I could stay. Braine put a guard over me. I don't know the guard's name. McKinney was standing at the cabin door with a pistol in his hand. I saw Braine speaking to him, but did not hear what he said. He remained a part of the time, and another took his place. The guard over us also had a pistol. It was nearly 9 when we were taken out for breakfast. There were four men on guard, standing up walking about on each side the table. Each man had a revolver; McKinney stood on the steps pistol in hand. After breakfast I went into the passengers' cabin with the mate and staid there most of the day, Monday. I asked liberty and went on deck several times during the day. There was no guard sent with me, but guards were stationed all along deck, on both sides of the ship. I saw Collins walk around deck with a pistol in his hand; I did not hear him giving any orders at that time. I saw Seely at that time cleaning brass on the timber heads. I saw Braine and Parr at different times, talking with these prisoners, during Monday and Tuesday. On Monday night us prisoners belonging to the ship were sent below; the officers were put in the passengers' cabin, and the seamen and firemen were put forward, with the exception of one of our firemen that they had on duty. At 8 o'clock on Monday night one of the (confederate) officers came down and took me up to the pilot-house and asked me to show him how the bells worked for stopping the engine. I showed him. When I was in there I asked where was our men; they said they were below. I heard Collins and Braine and Parr called by name. I heard Braine call Collins lieutenant. The parties all seemed to act under Braine. The officer who took me up had a pistol at his side. He took me back to the cabin. I remained there all night. I was kept under restraint all this time. I sat by the mate all night. On Tuesday morning, about half an hour before we got to Grand Manan, the party who was running the vessel for Braine sent Braine down for me. Braine took me on deck and told me to go forward and get the anchor ready to let go when they gave orders. Braine stood over me with a pistol. I got the anchor ready according to their orders, and let go when Braine told me. It was in a harbor in Grand Manan. This was about 8 o'clock Tuesday morning, December 8th. During all this time I didn't know what they were going to do; they wouldn't tell me nothing. I was a prisoner all the time and kept well down, with a guard over me. I was alarmed.

I saw blood on the deck where one of the officers (confederate) said the second engineer laid. He told me they killed him and hove him overboard. One of the confederate party told me the second engineer was shot in the head. I only know about the engineer what I heard the party say. The second engineer could not have pumped hot or cold water over the deck under twenty minutes' time. He might have done it alone. To do it he would have to come up on deck and go forward to the engine-house, go to his hose-box, unroll the hose along deck, and then connect them with the goose neck on the engine on the upper deck, then pass them down into the lower engine-room, then go

around behind the engine-room and go below himself and start his machinery there. Then he would have to come up again to his own engine-room and get a hold of his hose. It's not an easy thing for one man to do alone; I don't know that he could do it. All this would take him twenty-five minutes. I do not know that the second engineer had a pistol. I heard Braine say to the first engineer that he believed the second engineer fired first. The engineer said that he believed the pistol laid in the second engineer's bed yet, and that if Braine would allow him he would go to the room and find it. Braine did not say anything. I believe they went in search of the pistol and found it. [The magistrate ruled this last paragraph out.] I heard the chief engineer say to Braine afterward that they had found the pistol in the second engineer's bed and Braine could go and see it. The second engineer was a stout, able man, nearly six feet, about forty-five years old; lived in New York City; was a United States citizen, and told me several times he was born up the North River. He was on the boat pretty nigh two years; was a very nice-dispositioned man, a gentleman in his manner, &c.

After I let go at Grand Manan we had breakfast. I did not feel like eating at the moment; I felt uneasy. I did not know at what moment I would go over the rail. They lowered a ship's boat. Braine and three or four men went ashore and remained ashore two or three hours. Then they came off, hoisted the boat, and steered toward St. John. At this time I was in the cabin, into which I was ordered by one of the officers, and was kept under guard. They fell in with a pilot-boat; the boat ordered them to stop the steamer, and a man came on board from the pilot-boat and staid awhile, went back and returned to the steamer with another man with a valise. This was two or three hours after the steamer left Grand Manan. I did not hear either of these parties called by name. I could not say of my own knowledge whether either of these parties took charge. I was aft all the time. The steamer took the pilot-boat in tow up to Dipper Harbor. Then they hauled the pilot-boat alongside, and put all of our crew aboard except the two engineers and three firemen. They kept James Johnson, the chief engineer, August Stiebeck, the third engineer; I don't know the names of the firemen. Five passengers were put on board the pilot-boat; these were not of their party; on board the steamer they were kept down just as we were. One of the passengers remained on board the steamer—the person who acted as pilot. I do not know his name. The steamer towed us to within about three miles of Partridge Island and then let go. The steamer kept on her course toward St. John. It was about 8 o'clock Tuesday evening when they cut us clear. We kept on with the pilot-boat as long as we could. The boat anchored abreast of Partridge Island. We staid on the boat until 10 next morning. The steamer Chesapeake and cargo were taken from our possession by this party against my will, and was taken away by this party. I was in fear of my life from the time they took the steamer until I got out of the pilot-boat. I am not in the habit of being afraid under ordinary circumstances. We came up in the pilot-boat about 11 on Wednesday morning, and were put on board the steamer New England.

These prisoners were on board the steamer when she cast us off, and went with her. The prisoners were acting with Braine—all acting together.

The confederates put a staging over the stern of the vessel when they got the paint, for the purpose of painting the name out; and they said afterwards that they did paint it out. They made our men paint the yellow streaks out of the smoke-stack; they painted them black.

[Mr. Tuck asked the witness if the Chesapeake was an American vessel. Mr. Gray objected, saying this was not the proper way to prove her nationality. Magistrate seemed inclined to agree with Mr. Gray. Mr. Tuck cited what he considered a parallel case from Curtis's Digest. Mr. Gray and Mr. Weldon replied. The court ruled against the question.]

The Chesapeake carried the American flag. I never knew her to sail between any other than American ports. The stars and stripes are the American flag. The captain and crew had not charge of the vessel and cargo after she was taken possession of on Monday morning.

Cross-examined by Mr. Gray: I was in bodily fear of my life while on board the steamer when in hands of the confederates. My thoughts were a good deal on that. I have not told more than occurred. There was a good many things that I did not see. In coming down by the train the other day I did not get out for fear of coming to St. John.

When I was aroused I was told I was a prisoner to the Confederate States. I don't know that the federals have taken many vessels from the confederates—they may have taken some. When they took me prisoner I knew what they meant. I thought they were acting for the Confederate States. I did not see the confederate flag run up. I did not see the copy of the order given to Captain Willett by Lieutenants Braine and Parr. Captain Willett told me they gave him their names; he did not say they gave him a copy of the order. I was not treated with any unkindness more than was necessary to prevent the recapture of the vessel. They kept the engineer on duty when he was severely wounded in the chin and bleeding. When we landed I took

what clothes I had; the confederates did not prevent me taking anything. I did not see Lieutenant Braine and Lieutenant Parr talking to the other passengers. The party who sailed the vessel after she was taken appeared to act as if he was one of them. The cotton on board may have come from New Orleans or elsewhere. It might have come from Europe. I don't know. There was no one hurt who didn't make resistance to the capture of the vessel. Did not hear of Braine saying that his orders were not to injure any one except in case of resistance. I believe the men of the vessel were not ironed after Monday morning, when possession of the vessel was secured. The confederates told me that if I would be quiet and stay below I would be taken care of. One of them said no harm would be done me if I did not attempt to recapture the vessel. I believe all the passengers brought their baggage with them when landed. I do not know, and did not hear, that any of the passengers and crew (except the captain) lost anything.

To Mr. Wetmore: I do not know that these men were acting for the Confederate States. The chief engineer was forced to work when wounded. I don't know what became of the baggage of the second engineer, who was killed. I do not know how he was killed; that was when I was asleep.

The examination was conducted in scarcely so serious a style yesterday as on the first day. The witness himself was rather an "original" character; the lawyers, especially Mr. Gray and Mr. Tuck, appeared in a mood for sparring; and the audience were inclined to manifest their appreciation of the good hits that were occasionally made both by counsel and the witness. The lawyers on both sides seem to feel the utmost confidence in the justice of their respective causes, Mr. Gray frequently informing the court and spectators of what he "intends to show before the case is through," while Mr. Tuck and Mr. Wetmore identify themselves with their federal friends by talking of "robbers," "pirates," &c. The witnesses already examined seem to tell a pretty straight story, although the cross-examination has not failed to add to its interest by eliciting some new facts that might otherwise have been lost to the world.

At 4 p. m. a third witness named Charles Watters was wanted for the prosecution, but was not on hand. One of the policemen stated that Mr. Watters had said to him, when he went after him, that he would not appear unless compelled to do so. A document was accordingly issued to compel his attendance, and when the case comes up again at eleven to-day, Mr. Watters will probably take the stand.

On Thursday the investigation into the charges against Messrs. Collins, McKinney, and Seely was resumed.

James Johnson sworn: I reside in New York; was born in Ireland; have lived in New York fourteen years; am not naturalized; am an engineer; I know the steamer Chesapeake; I was her chief engineer for over a year; it was three years last July since I first went on board of her. She was employed in carrying passengers and freight. I was on board of her Friday and Saturday, December 4th and 5th. I was in charge of the engine from six to twelve that night. Nothing unusual occurred that night or on Sunday. The first thing I knew, between one and two o'clock on Monday morning, I was awakened by the report of a pistol. My room was on deck. I went out and found Mr. Schaffer on deck lying at the engine-room.

Yesterday Mr. Johnson resumed as follows:

The Chesapeake's voyage at this time was from New York to Portland. I can't say where she was built; I have known her for six years. She was called the Chesapeake six years ago. I knew her previously under the name of the Totten. She then traded between New York and Baltimore; I don't know where she was built. She has always traded between American ports since I knew her. She was rebuilt at one time in New York; I don't know where. She was called the Chesapeake before rebuilt. She is owned by H. B. Cromwell; carried the American flag.

When I found Schaffer's body lying on deck I raised him up and called him by name; he did not answer. He was lying on the deck with his feet down the hatchway. His body was on the deck. He was dead. This was between one and two o'clock. I did not see blood then. The night was pretty dark. I saw two specks on his neck. I could not tell whether they were cuts. I then went down, where he had come up, to the deck below. I then got a pistol put to my head by Collins, the prisoner, whom I identify. I could not see whether it was cocked. I told him to hold on; and then a man besides Collins, whom I took to be Brooks, shot me with a pistol.

[Mr. Tuck asked the witness if he knew who shot the second engineer. The witness was going on to state what Brooks said, when the prisoners' counsel objected. Magistrate decided against the question.] None of the prisoners now present were within hearing when Brooks made a statement to me. After I was shot I went across to the engine room. Before I went below, when I was at the body of Schaffer, I spoke to Wade and asked him to help me. He seemed to be afraid—said nothing. Wade was one of the party who conspired to take the vessel. I was fired at without anything being said to me. The ball lodged in my chin. It remained there until two days ago. It was taken out by Dr. Earle, at Ossekeag.

When I went across the engine room I found the mate, Charles Johnson, coming into

the room. He had been shot twice, once in the knee, the other in the arm. -He and I went into the kitchen, through a little hatch. We staid there for about a half hour. From there I saw Mr. Schaffer's body thrown overboard by three or four persons. Braine was one of them. I didn't know the others. He was thrown over just as he was; was not wrapped in anything. I don't know how long this was after he was shot. The cook came to the kitchen where we were. I asked where Captain Willett was; he said he was in the cabin. I asked him what was going on; he said the ship was taken. I told him to tell some one to come and take us out. I had no clothes on except my night shirt. George Robinson, the sailing master, came and took me to my room to dress. (Robinson was sometimes called Sears on the boat.) I did not see any pistol with Robinson; I heard two or three pistol shots fired on board. After dressing I went with Robinson to the cabin where the captain was in irons. The mate was there, wounded. Mr. Parr, who was called lieutenant, was taking a shot out of Brooks' hand. He then took a shot out of the mate's arm, and tried to take the shot out of my chin, but could not do it—he said it was fast in the bone. I had some conversation with Lieutenant Parr. He told me to keep the cold out of my cut. He assisted me in wrapping up my chin. I had no conversation at this time with reference to the pistol shots. I afterwards went to the engine room with Robinson to see if everything was right there. The third assistant and oiler, Striebeck, had charge of the engine. Captain Willets had asked me if the ship was safe; I said no; Robinson overheard this and went and asked permission to take me to the engine room. I wanted to see what state the ship was in, or if she was going to blow up. I found the oiler there. Did not remain there long. I told the man how to carry steam, and then went back to the cabin. I remained in the cabin an hour and then went back to the engine room. There was always some one with me as a guard. I don't remember either of these prisoners going with me. I was taken back to attend to the engine, and see that everything was going right. Braine spoke to me and said they had no engineer, and that I would have to attend to her. I was hardly fit to do it, the wound in my chin bleeding enough to cover my shirt. I remained in the engine room all day; I had to stay there, with some of the crew as guard, all the time. Both McKinney and Collins were on guard over me at different times. They were armed with revolvers. There was one man on guard in the engine room and one in the fire room all the time. I was not threatened. The two Coxes, Harris, two Moors, who were brothers, Tredwell, Wade, Collins, McKinney, Brooks, and Seeley guarded me in turn. Lieutenant Braine used to sit with me sometimes. He had command of the crew. The sailing master, Robinson, was on deck. They were all acting in concert. They acted under the orders of Braine and Parr, and sailing master Robinson, as far as I could see.

I remained in the engine room nearly all the time; when I slept it was on the locker in the room. I was not on deck much—hardly any. Did not see what was going on on deck. I don't know the time when the vessel stopped at Grand Manan. She remained there two or three hours. When we left there we came down toward St. John. We arrived off the harbor between seven and eight on Tuesday evening, December 8th. The steamer stopped on the way up, and took a captain, Parker, on board from a pilot-boat. He took charge over Braine. There was a gentleman, a Mr. McDonald, came on board at the same time. Mr. Parr introduced him to me as Mr. McDonald. We got nobody else in there. This Mr. McDonald came to see me, and told me to content myself for a few days—that he would only keep me forty-eight hours longer. He said he was concerned in the thing. I told him I wanted to get home, as my folks would be uneasy. He asked me for my wife's address, and said he would send her a telegram to let her know I was well and would be treated well. He forgot about all this afterward. I gave him the address. There was no telegram sent. McDonald went ashore in St. John. This was the only conversation I had with him. I saw him when I left Halifax the other day. He accompanied me all the way to Moncton, perhaps to see that I got safe through—not with my wish.

We remained off Partridge Island from three to five hours. A boat went ashore from the steamer with Captain Parker, Mr. Braine, and Mr. Parr. They did not tell me why they went ashore.

They were ashore all the time we laid there. We started as soon after they got back as we could get steam up. McKinney went ashore with them. I don't know whether they took anything on board with them. They got no coal here. I do not know that they got any provisions. We left St. John about 2 o'clock on Wednesday morning, under steam. I was still kept at the engine. We went into Shelburne, Nova Scotia, first. We got there between 8 and 9 o'clock on Thursday night. Captain Parker had charge of the vessel on her way to Shelburne. Had I been allowed I would have gone ashore in St. John; I was not allowed. I was taken away against my will. Four of our men besides myself were taken—myself, Striebeck, the oiler, Richard Tracey, Patrick Connors and John Murphy, firemen. I believe the others of our crew went on board the pilot boat. I managed the engine from here to Shelburne. I got a little sleep once in a while; I slept in the cabin three hours one time, the rest in the engine room. We had a rough passage to Shelburne—a heavy gale of wind after we got

around Cape Sable; it snowed. We laid to an anchor in Shelburne harbor all of Thursday night. We got coal and wood there. It came on board from a schooner. Captain Parker said we got ten tons of Sydney coal and two cords of wood. I don't know whether we got anything else or not. We put some little freight on board the schooner—some sugar, apples, and flour. I don't know the value of the freight; could not tell how many packages. Mr. Braine left the vessel there. I don't know whether he took any of the freight with him. I don't know where he went. He came on board again at La Have.

We got additional crew at Shelburne—four persons; the names of two were Snow and Smith. They had as many men before as the ship needed. Captain Parker said he belonged to Shelburne. He was his own pilot. I did not hear him called by any other name. We left Shelburne on Friday morning at daylight.

We put into La Have River towards evening, where we came to anchor. When there we discharged cargo into a schooner—there was flour, wine, sugar, and tobacco, and some cases of stuff. I can't tell how many packages of each went out. The wine was in quarter pipes. There was also some cotton went ashore. (The wine was distributed on board the vessel; I got some of it.) I heard Captain Parker say that Mr. Kinney, a man living there, got a thousand dollars' worth of the freight. Braine came back here. We laid there three or four days, and over Sunday. Braine did not tell me where he had been. He only staid there a little while. Mr. Parr told me that Braine took a trunk with him, supposed to be jewelry. [The magistrate objected to this "hearsay" being taken down as evidence, and adhered to his opinion, although Mr. Anglin furnished information respecting O'Connell's trial for high treason.] Braine did not return to the ship again. That was the last I saw of him. We got no coals or additional crew at La Have. We got some wood. I did not hear these prisoners say anything about Braine at this time, nor do I know what Braine took. Mr. Parr told me he was going away for a day or two to bring Braine back, and when he returned he would try and get the captain to liberate me, as he knew I wanted to get home. He also said Braine was not doing right; that he had taken four hundred dollars with him. [The witness was stopped.] Parr said I was not in a condition to stay on board, and ought to be liberated.

[At this stage the court adjourned for dinner. At 2.40 p. m. the examination was resumed. Mr. Gray again objected to the admission of the statement of Parr relative to Braine's leaving with money, &c., and cited "Roscoe's Criminal Law." Magistrate said he had already ruled in Mr. Gray's favor.]

Parr left after this conversation. He did not come back while we were there. I don't remember what evening we left. Captain Parker was still in charge when we left La Have, and these prisoners were also on board. We left and went down to the mouth of the river. I don't know of any special reason for leaving La Have. I had nothing to say in the matter. We towed the schooner down to the mouth of the river, and loaded her with freight; she was a vessel of about fifty tons. We loaded her pretty well with the Chesapeake's cargo; I can't say what. I saw the schooner lying at anchor next morning. I did not know where she went, or what was received for the cargo. We got some wood off the schooner before we put the freight in her. We remained at the mouth of La Have till daylight next morning. Then we went to Sambro. The coals we got at Shelburne lasted us down to Sambro, which is twenty miles from Halifax. Captain Parker went to Halifax for coal; he took none of the cargo with him. He returned to Sambro with a schooner loaded with coal and two engineers and two firemen. Parr had not returned at that time. We were taking in coals at Sambro from the schooner. They arrived at two in the morning; Captain Parker was in the schooner. I got up and spoke to Captain Parker, and he told me about those men he had. He asked me to show the engineers the machinery; I told him I would after daylight. After that I was getting ready to leave—Parker told me he was done with me—the pilot named Flinn, who carried her into Sambro, reported to Captain Parker that a gunboat was coming in. Parker went on deck to see her. (This was in Mud Cove.) He asked his new engineer to get some steam on. Captain Parker asked me to scuttle the ship. I told him I did not know how; he said I could cut a pipe and do it. I said we had no pipes that I could cut. Captain Parker left the cabin then. I carried my clothes on deck, and when I went up, Captain Parker and his crew (including the prisoners) were leaving the ship. They all left. I went and got the American colors out of the wheel-house, and gave it to one of my firemen to run up. He ran it up, Union down. The gunboat came alongside of us and boarded us. Lieutenant Nicholls was in command of the gunboat. At this time the oiler, and three firemen, and the two engineers that Parker brought, were on board. The new engineers had no chance to get into the boats. I had not steam up on the vessel. Lieutenant Nicholls asked me who was aboard the steamer. I told him. We then went to getting steam up. We had not coal enough to leave, and had no oil aboard. We left in an hour or an hour and a half. The gunboat was named Ella and Annie. We got coal and oil enough to start, and went to Halifax. The gunboat went into Halifax with us; the Dacotah was behind

na. We came to anchor in the harbor, and I went ashore in the evening. I was in Halifax since then until last Monday morning, when I left for here.

From the time the Chesapeake was taken Mr. Braine and Captain Parker and their crew had charge of the vessel, and Captain Willett and his crew had no charge from that time. I did not act of my own free will from that time, but under the orders of these people.

[Mr. Tuck asked what conversation he had with Lieutenant Parr respecting finding the second engineer Schaffer's pistol. Mr. Gray objected.]

I went into the second engineer's room with Lieutenant Parr and Striebeck, and I found the engineer's pistol and handed it to Mr. Parr. I found it in the second engineer's drawer. Parr examined the pistol. He said it had not been used. His room was on the deck above where he attended the engine. This engineer had been in the Chesapeake two years; I had been there all that time and knew him well. I hired him. I never knew him to carry a pistol. If he had I think I would have known it.

There were no means on the Chesapeake for putting boiling water on the deck. We had a force-pump to throw cold water, and hose in case of fire. The second engineer could not have got them to work. I saw these prisoners in the vessel from time to time after the vessel was captured. I do not know what Collins's position was or what he was called. They all carried revolvers.

Cross-examined by Mr. Weldon: I stated that Brooks was shot in the hand. It was in the left hand. Parr cut the shot out. I did not hear anything said about the second engineer shooting him. The engineer's place was on the deck below. I saw Brooks's face as the pistol flashed when he fired at me. He was not two feet from me when he fired. The ball was bedded in the bone. The wound in the chin can be seen now. The mate and I went into the kitchen and remained there half an hour before any one came. There was no more violence used. I gave Parr my razor to cut out the ball. They did not say they took the vessel in the name of the Confederate States. I heard nothing about the Confederate States. They used a secesh flag in Shelburne. I can't describe it; it didn't look right to me. I mean the confederate flag. I can't tell the color of it, or the number of stars. I took a look at it, but I can't remember what it looked like. I understood from one of the men that the confederate flag was up there. I can't tell how many colors there were in it. Neither Braine nor Parr told me they had orders to take the vessel. Parr told me he and Braine traveled on the Chesapeake a month before for the purpose of taking her. Parr told me he had been in the southern army. [Mr. Wetmore made objection to admitting Parr's "narrative." Magistrate overruled it.] Parr said he had been in the southern army and was a released prisoner. He did not say what part of the Southern States he came from. Parr treated me very civilly. He said one time that as Captain Parker had not kept his word, he (Parr) would try to get me away. I worked the steamer to Grand Manan, and from there to St. John. Part of the time my duty was on deck; sometimes I went up alone. I took my meals in the cabin. Braine told me he had no engineers and that I had to work the vessel. Captain Parker, when he came on board, said he would have to keep me awhile, and asked me how much money I wanted for retaining me. I said not to mind the money, that I would run the ship as I had to do it. After we left St. John I ran the vessel under Parker's orders. There was a watch in the engine room, fire room, and on deck all the time. The watch did not follow me when I went out of the engine room. Captain Parker said Shelburne was his native place. He did not tell me he had gone down South when a boy. He never mentioned the Confederate States to me. I don't know his Christian name. I never saw Parker before. I can't tell the distance we were inside Sambro Harbor when we were retaken. We might have been four miles inside—about half a mile from the shore. When the confederates left they took one of the steamer's boats. Some of the Ella and Annie's crew went on board the coal schooner, and searched it and found Wade. The two Halifax engineers and Wade were sent on board the Ella and Annie. When we went out of the harbor the Dacotah was lying outside at the mouth of the harbor, waiting. We spoke the Dacotah. Striebeck and the firemen all expected to leave the Chesapeake when the other engineers came.

Re-examined by Mr. Wetmore: The watch in the engine room and fire room were armed. I can't say about the watch on deck.

At half-past 4 p. m. the court adjourned until Monday morning. It seems that Mr. Charles Watters, who is wanted, cannot be found. The counsel for the prosecution are expecting other witnesses to arrive from the States.

The court was in readiness yesterday morning for opening at 11 o'clock, and at that hour the prisoners' counsel, as well as a very numerous body of spectators, were in attendance. Among the onlookers we noticed three clergymen, who probably had attended in order to lend the sanction of religion to what the editor of the Colonial Presbyterian no doubt considers the holiest of all causes, the cause of the Confederate States. There was not so much crowding among bystanders as on the previous days, but the interest manifested was not a whit less keen. This time the delay in proceeding with business was the fault of one of the prosecuting counsel, and not "Mr. Anglin's." We ought to explain that the editor of the Freeman has been very improperly

charged with retarding the court's proceedings by not being up to time in arriving at the police court. The lawyers say that since the editor "has taken charge of the case," he ought to be at his post at the proper hour.

Mr. Anglin and Mr. Wetmore having arrived, the investigation was resumed.

Mr. Wetmore offered in evidence copies of extracts from acts of Congress relating to piracy, and President Lincoln's proclamation of April 19, 1861, declaring the molestation of United States vessels by confederates to be piracy; the same being certified as correct by the Hon. William H. Seward, federal Secretary of State, and sealed with the seal of the federal State Department. Counsel for prisoners offered no objection. Mr. Wetmore wished counsel for the prisoners also to admit the American shipping act as in evidence, although he did not have it present. Mr. Gray agreed to this. Mr. Wetmore next tendered a copy of the order left by Lieutenant Braine with Captain Willet at the time of the capture. Admitted.

At half-past 12 Mr. Charles Watters was placed on the stand, and in answer to Mr. Wetmore's questions stated as follows:

I have lived twelve years in Carleton, and know McKinney and Seely. I have had no conversation with either McKinney or Seely relative to the capture of the Chesapeake. I heard a good many persons stating things in their presence. It was in Lower Cove; McKinney, Seely, and Gilbert and John Cox were present. The Coxes reside in Carleton. This was in a house in Lower Cove. I do not know the streets in Lower Cove. It was between Queen's square and the barracks. I don't know the names of the streets on the east and west side of Queen's square. It was not on the street on the west side. I would have to turn to a street on the left of the street to the west of Queen's square. [A plan of the city was shown to the prisoner, and he identified Main street as that on which the house was situated.] It was a workshop, up stairs; we went into a yard to go up. Besides the Coxes, McKinney, and Seely, the "captain" was there. There were ten or twelve there besides them. Lieutenant Braine was not there. The man they called the captain was there. I heard the captain say he wanted to raise a crew of twenty men to go to New York to take a steamer. I have since heard the captain's name was Captain Parker. I did not hear them say the name of the steamer. Some of the party asked if they were all going. We were all to get an equal share; I can't say what the officers were to get. There was to be a share for each man, and the particular share was not named. I did not hear anything about money being furnished, only that their passages from St. John to New York were to be paid. I think it was Parr said this. Parr was present at one of these meetings. I was present at two meetings. I saw these two prisoners at one meeting. I did not hear anybody say they would go that I remember of. These prisoners were present at the last meeting. There was nobody there scarcely at the first meeting. I was there, the captain was there, and some of the boys. I do not know Collins; I can't say that I ever saw him before to-day. I have not seen McKinney since that night. I had no conversation with him at or since that meeting. Seely went over to Carleton in the same boat with me that night. We had no conversation. I think I saw him going down Prince William street the next morning. I could not tell who went away. I was at the steamer at Reed's Point before she left; saw McKinney and Seely there. The meeting took place about a week before we heard of the Chesapeake being taken. I saw these two prisoners at the boat next morning. I can't say that these prisoners agreed to go. It was asked at this meeting whether the parties would go. I can't say that I heard the persons present assent to go. I was not at the first meeting. I had no conversation with McKinney or Seely before the meeting. I saw them the night of the first meeting in Carleton. They did not tell me then whether they were going; when we were on the road going (the two Coxes, myself, McKinney, Seely, and a man named George Robinson being together) they said they were going to the meeting. It was not stated to what place we were going. They (the prisoners) asked where we were going to; Robinson said they would find out when we got there. On the road they asked what we were going for, and were told, "To see the captain." Robinson wanted these boys to go over to the meeting, to go to New York to take a steamer. I heard some of them say they would go to the meeting and see what was going on. I can't tell what was talked of. Robinson, on the way, called at the Lawrence Hotel for Captain Parker, and he went with us. I heard of Parker wanting to raise a crew to go to New York three or four days before the meeting. On the last night of the meeting I went to see what conclusion was come to. It was said there that those who would go were to go the next morning in the American steamer. The prisoners McKinney and Seely belong to Carleton. Seely was brought up there, and McKinney I have known two years. I went to the steamer to see who was going, but I didn't calculate on going. The only ones I saw on board the boat, of those who were at this meeting, were McKinney and Seely. I might have passed them the time of day. I could not say whether they were on the boat when she left; I was going up the hill when she started. I was at the boat at a quarter of 8 a. m., and left before the boat left. I might have stopped five, or ten, or fifteen minutes. I was at the head of the wharf when she let go her fastenings. I think the prisoners might have gone in the boat, but I can't say where they went. I didn't see any funds at the meeting in Lower Cove.

Cross-examined by Mr. Gray: It was stated at the Lower Cove meeting that they were going on behalf of the Confederate States to take this vessel. I think it was said that the confederate government was to regulate the "share"—I can't remember distinctly. It was stated that the vessel would be a prize to the confederate government. Captain Parker said he had authority or commission from the confederate government; he produced a paper which was read over at the meeting. I don't remember that he stated what the paper contained. Captain Parker read the paper, commencing thus: "Jefferson Davis, President of the Confederate States of America." It was the size of the document now produced by Mr. Gray. [This was understood by spectators to be Captain Parker's commission.] I think the intention expressed at the meeting was that the vessel was to be taken for the Confederate States, or else they would not have gone. I heard that Captain Parker and Lieutenant Braine were officers in the confederate service at the same time that I heard they wanted to raise this crew for the confederate service for the purpose of taking this vessel. It was understood that she was to be taken for the confederates; and it was stated that these men were to be in the confederate service. I could not say that it was stated at this time that Parr was an officer in the confederate service. I was not close enough to read Captain Parker's paper.

[Mr. Gray proposed to put Captain Parker's commission in the witness's hands to identify. Mr. Wetmore strongly opposed this. The magistrate ruled in favor of its being placed in the hands of witness, and also that this could be done without the paper being first placed in the hands of the opposing counsel. The witness said he could not identify the document even if it was handed to him.]

Captain Parker read paper aloud, and said it was his authority. I did not see Braine the first night; I did the second night. He was called Lieutenant Braine. I don't remember of Parker saying that he was captain of the Confederate States privateer Retribution.

Re-examined by Mr. Wetmore: I heard from Captain Parker that this crew was wanted. The steamer was to be brought to Grand Manan to land passengers. I did not expect to go. I did not know it was stated where those who went from here were to land. At the meeting it was talked of that the vessel was to be taken over to Nova Scotia. I do not know that any of the officers said so. I heard that the question was asked where the vessel was to be taken. I did not hear it stated that the vessel was to be taken to Nova Scotia, and her cargo to be disposed of there. I don't know what "the share" was to be of. I did not inquire—do not know what they meant by it. Perhaps they were to divide the steamer and cargo. I can't say when or where they were to "divide." It was from Robinson that I heard that Parker and Braine were officers. Robinson belongs to St. Stephen, I believe. I went to the meeting just to see what was going on. I don't know that it was said at the meeting that the business was dangerous. It was not stated that they might get their necks stretched. It was distinctly said that they would be protected by the confederate government. It was not said what they were going to Nova Scotia for.

There was more squabbling among the lawyers to-day than on any other occasion since the commencement of the trial. The witness Watters appeared to give his evidence with considerable reluctance, probably on account of some of his Carleton friends being so directly concerned in the matter. At the conclusion of to-day's examination Mr. Gray agreed to consider a certified copy of the Chesapeake's register and coasting license as in evidence, as Mr. Wetmore said they were on their way here. This closed the case for the prosecution. As several of the lawyers will be engaged in the circuit court, which meets to-day, further investigation is postponed until Friday next.

The investigation into the charges against Collins, McKinney, and Seely was to have been resumed yesterday, but on application of the Hon. Mr. Gray it was further postponed until next Thursday, as Mr. Gray had applied to the lieutenant governor for certain documents which the governor could not decide upon furnishing until he had consulted his law advisers. Mr. Gray intimated that he might ask the magistrate for protection to Braine, Parr, Locke, and others named in the warrant, in case they were wanted as witnesses. The magistrate seemed to be very emphatic in opposition to such a course. The Globe says that "the inference to be drawn from Mr. Gray's remarks in reference to the papers for which he had written was, that if they are not furnished he will ask that the magistrate issue a subpoena for bringing her Majesty's representative forward as a witness in the case."

Mr. Adams to Mr. Seward.

(Extract.)

No. 584.]

LEGATION OF THE UNITED STATES,
London, January 28, 1864.

SIR:

So, likewise, your dispatches, Nos. 805 and 807, direct me to make representations as to the conduct of the colonial authorities in Nova Scotia and New Brunswick in the

case of the steamer Chesapeake. But the latest intelligence received from America leads me to suppose that the decision in that case has been, on the whole, as favorable as could be desired. Inasmuch as this is not, however, as yet put in any shape that can be absolutely depended upon, I have thought it best to put off taking any action under these instructions until the actual facts are ascertained.

I have the honor to be, sir, your obedient servant,

CHARLES FRANCIS ADAMS.

Hon. WILLIAM H. SEWARD,
Secretary of State.

Lord Lyons to Mr. Seward.

WASHINGTON, January 30, 1864.

SIR: I lost no time in communicating to the governor general of Canada the note dated the 13th instant, in which you did me the honor to inform me that you considered it possible that John C. Braine and others, fugitives from the justice of the United States, might have taken refuge in Canada, and that you would therefore ask that the necessary measures should be taken by the Canadian authorities for their extradition, in pursuance of the tenth article of the treaty of Washington.

The governor general has informed me, in reply, that he has referred this application to the law officers of the Crown in Canada for their report.

The governor general had not any reason to suppose that any of the persons named had come within Canadian jurisdiction.

I have the honor to be, with the highest consideration, sir, your most obedient, humble servant,

LYONS.

Hon. WILLIAM H. SEWARD, *Sec., Sec., Sec.*

[From British Blue Book, "North America," No. 9, 1864, pp. 72-75.]

No. 21.

Lord Lyons to Earl Russell.

[Extract.]

WASHINGTON, February 1, 1864.

I have the honor to transmit to your lordship further papers relative to the affair of the Chesapeake.

The first of them is a letter from Mr. Seward, stating the impression produced by the papers which (as I had the honor to report to your lordship in my dispatch of the 18th ultimo) I placed in his hands on the 16th instant. Your lordship will observe that Mr. Seward, while acknowledging that the proceedings of Major General Doyle, the administrator of the government of Nova Scotia, seem to have been conducted in good faith, affirms that his excellency "ought to have relinquished to the agents of this government the stolen vessel, and the pirates found on board of her, subject to the express engagement of this government to answer to the British government any claim that it might have, either upon the ship or the men."

Mr. Seward seems to forget the flagrant violation of her Majesty's territorial jurisdiction committed by the United States officers, and the necessity it imposed on the administrator of the government to be more than usually careful to make it apparent that her Majesty's rights had been vindicated. It may be observed, also, that there were no persons found on board the Chesapeake to whom the description of "pirates" can well be applied. The two men who were on board, and who were seized and put in irons by the United States officers when they took possession of the vessel in the British harbor, appear to have been British subjects who had gone on board the Chesapeake after her arrival at Nova Scotia, and who had no connection with the previous seizure of that vessel by the passengers. The only man taken by the United States officers who was implicated in that act of the passengers was Wale, who was not taken on board the Chesapeake, but was violently seized by those officers on board a British ship, in a British harbor.

I have thought it right to communicate a copy of Mr. Seward's letter to Major General Doyle.

The remaining inclosures relate principally to the demands on the governments of Canada and New Brunswick for the extradition of men concerned in the seizure of the Chesapeake at sea.

[Inclosure No. 1 is a note from Mr. Seward to Lord Lyons, January 18, 1864, printed *ante*.]

[Inclosure No. 2.]

Lord Lyons to Major General Doyle.

WASHINGTON, February 1, 1864.

MY DEAR GENERAL DOYLE I inclose a copy of a semi-official letter, dated the 18th instant, which I have received from Mr. Seward, and in which he comments on the papers concerning the affair of the Chesapeake, which, as I informed you in my dispatch of the 18th, I put into his own hands a day or two before.

I do not object to your making the members of your government acquainted with the contents of Mr. Seward's letter, if you consider it important to do so.

Yours faithfully,

LYONS.

[Inclosure No. 6.]

Lord Lyons to Major General Doyle.

WASHINGTON, February 1, 1864.

SIR: I had on the 28th ultimo the honor to receive your excellency's dispatch of the 20th ultimo, transmitting to me information respecting the proceedings against the persons charged with obstructing the execution of the warrant for the arrest of Wade.

I have put into the hands of the Secretary of State of the United States copies of the letter addressed to your excellency by the attorney general of Nova Scotia, and of the printed report of the proceedings before the mayor of Halifax.

I have, &c.,

LYONS.

[Inclosure No. 7.]

Viscount Monck to Lord Lyons.

GOVERNMENT HOUSE,
Quebec, January 20, 1864.

MY LORD: I have the honor to acknowledge the receipt of your excellency's dispatch of the 13th, inclosing copy of a note from the Secretary of State of the United States, demanding the extradition of John C. Braine, H. A. Parr, John Parker Locke, *alias* Vernon G. Locke, David Collins, George Robinson, and John Wade, fugitives from the justice of the United States.

In reply I have the honor to inform your excellency that I have referred this application to the law officers of the Crown in Canada for their report.

I have, &c.,

MONCK.

[Inclosure No. 8 is a note from Lord Lyons to Mr. Seward, January 30, 1864, printed *ante*.]

[Inclosure No. 9.]

Lieutenant Governor Gordon to Lord Lyons.

[Extract.]

GOVERNMENT HOUSE,
Frederickton, New Brunswick, January 21, 1864.

I have the honor to acknowledge the receipt of your lordship's dispatch of the 5th instant, and am gratified to learn that the cabinet of Washington appreciates the prompt

action of this government in reference to the alleged piratical seizure of the United States steamship *Chesapeake*.

A determination to observe in the strictest manner the requirements of international law, and to fulfill every obligation of international courtesy, will, I trust, always be found by the government of the United States to exist on the part of this province.

In my dispatch of the 28th ultimo, I informed your lordship that I had issued my warrant, authorizing the arrest of the parties implicated in the transaction referred to. Since that date three of those persons, David Collins, James McKinney, and Finns Seeley, have been arrested at St. John.

The honorable J. H. Gray, of St. John, one of the counsel for the accused, applied to me on the 31st ultimo on behalf of his clients for copies of the requisition upon which my warrant authorizing the arrest was founded, and of the depositions which accompanied it.

I accordingly transmitted the required documents to Mr. Gray, at the same time stating my reasons for declining to entertain his application as a matter of right, while I acceded to it as an act of courtesy for which persons in the position of the accused might fairly look. At the same time I informed the United States consul of my decision.

[Inclosure No. 10.]

Lord Lyons to Lieutenant Governor Gordon.

WASHINGTON, February 1, 1864.

SIR: I have the honor to acknowledge the receipt of your excellency's dispatch of the 21st of this month, informing me that three of the men implicated in the affair of the *Chesapeake* had been arrested at St. John, and that your excellency had communicated to their counsel copies of the requisition upon which your warrant authorizing their arrest was founded. I am very much obliged to your excellency for the information you have been so good as to send to me with regard to the communication of the requisition. The subject has not hitherto been mentioned to me by the Secretary of State of the United States, nor have I spoken to him about it.

I am, &c.,

LYONS.

[From British Blue Book, "North America," No. 9, 1864, pp. 76-78.]

No. 24.

Lieutenant Governor Gordon to the Duke of Newcastle.

FREDERICTON, February 1, 1864.

MY LORD DUKE: I have the honor to transmit for your grace's information a report of the evidence adduced in the case of the *Chesapeake* since the date of my last dispatch on the subject.

Your grace will probably be surprised to find an investigation commenced before the police magistrate on the 28th of December still unconcluded.

I have also the honor to inclose copies of further correspondence between the Hon. J. H. Gray and myself.

I have, &c.

ARTHUR H. GORDON.

[Inclosure No. 1.]

NEWSPAPER EXTRACTS.

The *Chesapeake* investigation is being spun out to an interminable length. On Thursday the evidence against the prisoners was read over to them, and they plead "not guilty" to the charges of piracy and murder, and declared that what they did was done in behalf of the Confederate States; that they had no intention of doing anything criminal; and they believe they have not so done. To meet the wishes of Mr. Gray further investigation was postponed until Tuesday next, when that gentleman will enter on the defense, and will submit, as he alleges, both documentary and oral testimony. People are curious to know whence the "oral" proof is to come. Mr. Gray submitted copies of the depositions on the strength of which the lieutenant governor issued his warrant for the arrest of the *Chesapeake's* captors.

THE CHESAPEAKE CASE.

We reprint, from the *Morning News*, the evidence put in in this interminable case yesterday. The court adjourned until 11 o'clock to-morrow morning, a fact that we hope the counsel for the prisoners will not overlook. One of the *Halifax* papers says that some evidence has been sent from that city that will put a materially different face upon the matter in favor of the defense.

John Ring was then called and sworn: I live in Carleton; have lived there all my life. Know McKinney and Seely, two of the prisoners. Knew Watters who gave evidence the other day. I was at meetings in Lower Cove when a proposal in reference to taking a vessel was named. It was proposed to take men for the confederate service. I saw there a man called Braine, and another called captain. Did not see a person called Parr at either of the two meetings, both of which I attended. Another man, in presence of the captain, showed what was his (the captain's) authority. I knew it by a large seal, upon which was what I took to be a man's head and body; it was on the left hand near the corner. There was another seal on the right-hand side; it looked like a blot. I saw Jefferson Davis's name at the bottom. I swear that that is the identical paper that was read at the meeting. The man had just concluded the reading of the paper when I entered. [Mr. Gray wished the paper to be read by the witness, but Mr. Wetmore objected, and the magistrate ruled that he could not receive the paper in evidence unless proved genuine. Mr. Gray wished it to be read merely to show the animus of the parties, not the genuineness of the document.]

Cross-examined by Mr. Wetmore: The blot looked dark. I can't say whether both seals were on the same side or not.

James Tricartain sworn: I live in Carleton; was born and brought up there. Was not at both meetings in Lower Cove; was at the last one. Watters and Ring were there. A man called Braine was there. I was introduced to Captain Parker. Asked Parker for his authority. He pointed to a gentleman present who, he said, would show his authority. The gentleman took a white envelope from his pocket and drew out a paper, on the back of which there was a small seal. I saw the large seal when it was opened. Heard it read. It commenced with "Jefferson Davis, president of the Confederate States of America." Jefferson Davis's signature was at the bottom.

Cross-examined by Mr. Wetmore: I identified the document by the seal, and by the name Jefferson Davis at the bottom written out in full. I saw it once since in Mr. Gray's office. It was Thursday last, about 7 o'clock in the evening. I went there to see Mr. Gray, as I understood he wished to see me. Mr. Gray, Ring, another gentleman, (meaning Mr. Weldon,) and myself were there. Mr. Gray asked me to give him a description of the paper. I did so, and he then handed it to me. [Here Mr. Gray was about handing the paper to witness for the purpose of identification, when Mr. Wetmore objected to allow it to be placed in the witness's hands, unless he (Mr. Wetmore) should first be allowed to read it.]

Re-examined by Mr. Gray: I identify the paper which, as folded, you have placed in my hands. The red seal shown to me is the one which was on the paper on that occasion. I saw the seal when the paper was read. I looked at it for about five minutes. I examined it close enough to know that that was the seal; there was a diamond stamp on it. Will not undertake to say there was a name alongside, nor that the paper was witnessed. I swear to the paper from the little seal on it.

THE CHESAPEAKE AFFAIR.

POLICE COURT, *Saturday*.

At 11 o'clock this morning the court was crowded, it having leaked abroad that some gentlemen from the South were to give evidence which would materially affect the case. There were four of them, one pretty well advanced in years, and of a robust frame, with a Celtic cast of countenance. The next was a man of perhaps thirty years of age, with long flowing hair, and a moustache and beard falling from the lip and chin, which he incessantly teased and stroked, while his cheeks were clean shaven. The third is a handsome-looking young man of about twenty-five, one who might, from the influence of wealth or family, get a position of trust, which he would no doubt fill mechanically, but no one would take him for one who, by natural ability, would attain either name or position in the world. The fourth is a harmless-looking youth, who would pass for a respectable grocery clerk, possessing no particular talent or quality. After some wrangling among the lawyers, the commission, duly certified, establishing a court of admiralty in the province was received as evidence. Some other documents which were found not to be properly certified to on a previous occasion were now brought forward and admitted. The examination of witnesses then proceeded.

Dr. Luke P. Blackburn, from the Confederate States, the old man referred to, was placed upon the stand, and testified: I am a resident of Natchez, Mississippi; have been medical director of the State of Mississippi since January last; was

president of the medical commission in the State; left the confederacy on the 16th of July last. I am a native of the State of Kentucky; have resided in Natchez since March, 1846, and have been connected with the army since the difficulties commenced. I am intimately acquainted with Jefferson Davis, the president of the Confederate States; I have corresponded with him and know his handwriting. I also know the seal of the Confederate States. The seal and flag of the Confederate States were changed in May last. I know Mr. Benjamin, late secretary of state for the confederacy, and know his handwriting. In October, 1862, he was secretary of state. The provisional government was established in April, 1861. Mr. Benjamin was secretary of war for a short period—about six weeks I think—in 1863; he is now attorney general. I have an intimate knowledge of Jefferson Davis's handwriting, and believe that the writing (on a document furnished him by Mr. Gray) is Mr. Davis's writing. I am not so expert but that my own writing might be forged upon me. I am not so certain about Mr. Benjamin's, but I think that the signature here is that gentleman's writing. The seal on the document is that of the provisional government. The seat of government was removed from Montgomery to Richmond. A war now exists between the Northern and Southern States. There is an exchange of prisoners between them. They treat each other generally as belligerents. I arrived in the city this morning; came from Fredericton; ran the blockade and came to Montreal, and from thence here. My family reside in Louisville, Kentucky. I am now on my way home. The confederate government grants letters of marque; did so in 1862. Charleston is in the State of South Carolina in the Confederate States, and likely to remain there. (The letter of marque to Captain Parker, of the ship Retribution, was then read.) In 1862, the States of Texas, Louisiana, Arkansas, Missouri, Kentucky, Tennessee, Mississippi, Alabama, Florida, Georgia, North Carolina, South Carolina, Virginia, composed the Confederate States, making thirteen altogether, and each had representatives in the confederate congress.

Alonzo G. Coleman, being sworn, testified: I am a resident of the Confederate States; was born and brought up there, and a native of Alabama. My father had large estates in that State before the war commenced. I have been engaged as private in the army of that State since May, 1861. There are a great many other gentlemen of rank acting as privates.

Mr. Gray asked the question if officers appointed to a particular duty have the authority to appoint others under them to that post, and to delegate that authority of carrying out their duty or to aid in carrying it out?

Mr. Wetmore objected to this as being inadmissible as evidence in the present case.

Mr. Gray contended that the laws of any country are respected and recognized by other nations. But the counsel for the prosecution argued that the witness, in order to answer the question must be acquainted with the law; and even then he doubted if it could be taken as evidence. He did not want to know what the practice was, but what the law in this case.

The witness stated that when an officer has not a sufficient number of subordinate officers, he has appointed even privates to act as lieutenants, and he had himself acted as lieutenant commanding an outpost. He afterwards stated that they had the authority to do so according to the practice of the service of the confederacy.

It being now 1 o'clock, the magistrate adjourned the case until after dinner.

[From British Blue Book, "North America," No. 9, 1864, p. 75.]

No. 22.

Major General Doyle to the Duke of Newcastle.

GOVERNMENT HOUSE, *Halifax Nova Scotia*, February 4, 1864.

MY LORD DUKE: In accordance with the promise which I have made to your grace to keep you informed of any further steps which may have been taken in this colony with regard to the affair of the Chesapeake, I have now the honor to transmit the copy of a report which I have called upon the advocate general of the court of vice admiralty to make to me on certain proceedings which have transpired in that court with reference to the above-mentioned vessel.

I have, &c.,

HASTINGS DOYLE.

[Inclosure.]

Mr. Johnston to Major General Doyle.

HALIFAX, February 11, 1864.

SIR: I have to inform your excellency that yesterday, in the vice-admiralty court, motions were made upon claims asserted on behalf of owners of British goods, part of

the cargo of the steamer *Chesapeake*, and as advocate general, having previously examined and been satisfied with the proofs, I signed consent to restitution upon payment of any salvage and costs that might attach. The judge intimated that he would, on Friday, (to-morrow) make order respecting salvage, costs, &c. Motion was also made upon a claim asserted for the ship, and also for all the cargo not specifically claimed. The proofs sustaining the claim for the ship were not free from some objections, but on the whole I thought they might be considered as sufficient in the first instance, and consented to restitution upon security being given to meet latent claims, and upon payment of any salvage and costs. The claimants' proctor took time to ascertain his ability to find security.

The claim asserted for the cargo not specifically claimed by the party claiming the ship, and as going with her, was not recognized, and stands over in case it should be deemed advisable to move in it hereafter, where, after longer time has been allowed for specific claims, the objections may be less effective than at present.

I have, &c.,

W. J. JOHNSTON.

[From British Blue Book, "North America," No. 9, 1864, pp. 79-81.]

No. 25.

Lieutenant Governor Gordon to the Duke of Newcastle.

FREDERICTON, *New Brunswick*, February 15, 1864.

MY LORD DUKE: I have the honor to inclose, for your grace's information, an account of the proceedings which have taken place before the police magistrate at St. John, since the date of my last dispatch, connected with the seizure of the steamer *Chesapeake*.

Your grace will perceive that this protracted examination is not even yet concluded.

I have, &c.,

ARTHUR H. GORDON.

[Inclosure.]

NEWSPAPER EXTRACTS.

ST. JOHN, *New Brunswick*, Saturday, January 31, 1864.

EXAMINATION OF THE CONFEDERATES.—Owing to the presence, at the police court, of several gentlemen belonging to the Confederate States, who were expected to give evidence for the defense in the *Chesapeake* case, the court on Saturday was crowded to excess with a most respectable audience, and the greatest interest was manifested in the proceedings. The first witness examined was Dr. Luke P. Blackburn, of Natchez, State of Mississippi, a person whose bearing bespoke the true gentleman. The doctor had filled the office of medical director of Mississippi, and was intimately acquainted with President Davis and his handwriting, and with the seal of the southern confederacy. He identified the signatures and seal on Captain Parker's commission, placed in his hands by Mr. Gray. He also testified to the confederacy issuing letters of marque in 1862. The next witness was Mr. Alonzo G. Coleman, a native of Alabama, whose father owned plantations in that State previous to the war, but the son (the witness) nevertheless took his place as a private in the ranks. In answer to Mr. Gray, he said it was a recognized practice of the confederate service for officers appointed to a certain duty, to delegate their authority to others, even to privates, and that such acts were recognized by their commanding officers of all grades, and by the enemy. The persons thus delegated would, if captured by the federals, be treated as prisoners of war. Captain Thomas Herbert Davis was the third witness from the confederacy. He had served under Generals Beauregard, Joseph Johnston, and Lee. His last corps general was Longstreet. He had entered Fort Moultrie as a volunteer when the *Star of the West* attempted to succor Fort Sumter, at the opening of hostilities, and had fought his way up to a captaincy, which position he held when wounded and captured, at Gettysburg, by the federals. He had been confined, with other confederates, at Johnson's Island, from which he escaped on New Year's night, walking some one hundred and twenty miles to Canada. He also testified to the practice among officers of delegating authority to their subordinates to perform certain duties, and said he had exercised such authority himself. Mr. Ephraim Tom Osburn, a young man of probably twenty-seven years, of Kentucky, a non-commissioned officer under the celebrated General John H. Morgan, and who had also escaped from a federal prison, Camp Douglas, in December, corroborated the testimony of previous witnesses respecting the

delegation of authority. All of these southerners gave their evidence with marked precision and in the frankest manner, furnishing a remarkable contrast in style and manners to some of the witnesses for the prosecution.

A fourth witness was Mr. Eben Locke, brother of Vernon G. Locke, better known as "Captain John Parker," who ordered the seizure of the *Chesapeake*. He is a native of Shelburne, Nova Scotia, but now resides to the eastward of Halifax. He saw his brother in Nassau in May last, in command of the confederate privateer *Retribution*, and his brother there showed him his commission. He saw him again at Sambro, after the recapture of the *Chesapeake*, and took him up to Halifax, where he again was shown the commission by his brother. The witness identified the commission produced by Mr. Gray as the one he had seen and handled and examined at Nassau and Halifax. He remembered "the writing on the back" distinctly—an indorsement, we believe, from one Power to Locke or Parker. The witness said he believed his brother changed his name when he took command of the *Retribution*, he supposed for the purpose of deceiving the enemy.

Mr. Gray tendered in evidence a copy of a commission sent out to this province by Lord Bathurst for establishing a court for the trial of cases of piracy, and also the *Royal Gazette*, containing a copy of the Queen's neutrality proclamation of May 18, 1863, in which the Confederate States are recognized as belligerents.

Yesterday the police court was again crowded with spectators who expected to hear the testimony of another "distinguished southerner" whom Mr. Gray was to have on hand. But the gentleman did not make his appearance, and the court adjourned until Saturday, with the understanding that a further adjournment would then be granted until Wednesday next. In the mean time, the leading counsel on both sides have court business which takes them to Fredericton for a week or more.

WEDNESDAY, February 10, 1864.

EXAMINATION OF CONFEDERATES.—In the police court yesterday morning the business was confined to proving the authenticity of certain papers under whose authority the captors of the *Chesapeake* profess to have acted in making the seizure. The first of these was Parker's order to Braine to take the vessel; the second, Parker's order to Collins making him second lieutenant in the confederate service; and the third, the order of transfer of the Confederate States privateer *Retribution* from Captain Power, her former commander, to the command of Captain Parker. As respects the two first, Captain Driscoll, being sworn, deposed that he knew Parker's handwriting, and had once seen him write, and that the signatures appended to the documents in question were his, to the best of his knowledge and belief. Mr. Watson, clerk to W. and R. Wright, was examined. The register, or certificate of transfer, of the confederate schooner *Kate Hale* to British ownership, drawn in the spring of 1862, to which the name of W. F. Colcock, collector of the port of Charleston, South Carolina, was appended as a witness, was produced, in order to compare that signature with a similar one attached to the order of transfer of the *Retribution* from Power to Parker. Witness believed the former to be genuine, inasmuch as the certificate of registry was an official document, received and recognized as such by the custom-house officers at this port; and although he could not swear to the handwriting of collector Colcock, the two signatures were obviously written by the same person, and to the best of his belief were Colcock's. Counsel for prosecution demurred at accepting this testimony, but it was finally received by the presiding magistrate.

The court adjourned to Monday next, with the understanding that the lawyers would then commence their argument on the case. Mr. Weldon thought another witness for the defense might be on hand by that time. If this witness arrive his evidence will be received.

No. 26.

Major General Doyle to the Duke of Newcastle.

GOVERNMENT HOUSE,
Halifax, Nova Scotia, February 18, 1864.

MY LORD DUKE: I have the honor to transmit documents containing a particular account of the circumstances which have taken place since the *Chesapeake* was placed in the vice-admiralty court. The affidavits indeed narrate those which occurred at the original taking of that vessel, and also afterward to the period of her recapture by the United States war steamer *Ella* and *Annie*.

I thought it best to send these papers to your grace, (which have been printed in a pamphlet form by order of the judge,) although I had previously sent slips from newspapers containing some of the information which will be found in these documents.

Your grace will see that Judge Stewart had originally taken the same view of the

law as applicable to this case, as is contained in the opinion of the imperial Crown officers communicated to me in the inclosure to your dispatch of the 23d ultimo, marked "Nova Scotia, confidential," which I received by the last mail, and which I deemed it right to show to the judge and the Crown officers. Moreover, your grace will observe by these documents and the judge's remarks on directing the vessel and cargo to be restored, that her Majesty's advocate general consented to the writ of restoration being awarded without bail, and your grace will also perceive that the difficulty which the imperial law officers of the Crown apprehended from placing the Chesapeake in the vice-admiralty court has thus fortunately not arisen.

Trusting that the course I have pursued in this most embarrassing case may give me the honor of your grace's approval, I have, &c.

HASTINGS DOYLE.

[Inclosure.]

REPORT OF PROCEEDINGS IN THE VICE-ADMIRALTY COURT OF HALIFAX, NOVA SCOTIA,
RESPECTING THE CHESAPEAKE.

COURT OF VICE-ADMIRALTY.

HALIFAX, *February 15, 1864.*

Judgment was this day given by the honorable Alexander Stewart, C. B., judge of the vice-admiralty court, in the cause, No. 211, of the Queen vs. The steamer Chesapeake and cargo. The advocate general for the Crown, J. W. Johnston, J. W. K. Johnston, and Isaac J. Wylde, esquires, advocates and proctors, for portions of the cargo. The honorable S. L. Shannon, advocate, and William Morse, esq., proctor, for the vessel and the remainder of the cargo.

On the 6th January last the advocate general exhibited affidavits of himself, made before the registrar, and copies of three affidavits made before the mayor of this city by James Johnson, George Ames, and Mary V. Burgoyne, and also the affidavits of William Henry, Alexander Henry, John E. Holt, and Patrick Connors, sworn before the registrar, (copies of all which affidavits are attached to this judgment.) Upon these affidavits he moved for a warrant to arrest the steamer Chesapeake and cargo as having been piratically taken on the high seas from her lawful owners, which I granted. It was issued on the same day, made returnable on the 12th, executed on the 7th, and returned and filed in the registry on the 9th of January. On this last day he moved for a commission of unlivory, which I granted, informing him that he might cause the cargo to be unladen or not, as in his discretion he should think fit.

On the 18th he placed it in the hands of the marshal, who, on the 29th, returned it executed, (with inventory attached to it,) unto the registrar.

No appearance on behalf of the captors of the Chesapeake having been filed on the return day of the warrant of arrest, they were, on the petition of the procurator general, in the usual manner pronounced in default.

Claims of British owners for parts of the cargo have been allowed, viz: To Ross & Co., of Quebec, for one hundred and nine hogsheads of sugar; to Belony and Lamotte, for ten hogsheads of tobacco and a box of tinfoil; to Charles Sampson for one cask of augers, and to James McNay for five rolls of sole leather; and, her Majesty's advocate general having consented thereto, I decreed writs of restitution.

On the 10th of February Mr. Morse, on behalf of the owners of the vessel, moved for the admission of their claim that the vessel be restored to them, and that the remainder of the cargo (which is unclaimed, and which is owned in part by British subjects and in part by American citizens) should be delivered to them in order that they might carry the same to the original port of destination, Portland, in the United States, and there deliver it to those who were entitled to receive it. The advocate general has examined this claim and consented that a writ of restitution thereof be granted without bail, to answer prospective or (what are in this court designated) latent claims. And upon this claim I am now giving judgment. But it is obvious that thus granting this claim and the restoration prayed for will terminate this case. These claimants are citizens of the United States of America, the vessel is an American steamer, and I may mention that, as an additional ground for the delivery of the unclaimed cargo to them, they allege that they have a lien thereon for freight. It is the ordinary practice of this court to direct property taken by pirates to be returned to the owners without delay, and, except where there is a strong necessity for requiring it, without bail for latent claims, taking care to protect the rights of the salvors and the droits of admiralty. At this period it is incumbent on me to state that I adhere to the opinion I expressed on the 9th and repeated on the 12th of January. I do not at all controvert the legal principles suggested at the bar as worthy of my consideration, but I do not perceive their applicability to the circumstances of the present case. But whether I be in error

or not, whoever or whatever they are who seized the vessel, and whatever in their own or in their counsel's estimation their rights may be, they have not thought fit to vindicate them before this court. They have, as I have just noticed, suffered judgment by default.

I have been much embarrassed in dealing with this case. To grant this application will be entirely within the rules applicable to it, for, on the facts sworn to, the taking was undoubtedly a piratical taking. But in its origin, in its position before the court, in the mode of the recapture, in short, in all the concomitant circumstances, the case is very peculiar. I was, therefore, in the absence of decided cases, obliged to recur to and rely on for my guidance, those principles which lie at the basis of all law. And I do not think I shall be acting unbecomingly in referring for a few moments to those principles.

The right of self-defense is one of the fundamental attributes of an independent state, and the principles which regulate its conduct towards other states have their foundation in a higher philosophy than that which underlies the municipal or positive law. The latter implies a ruler to prescribe, and a subject to obey. An independent state recognizes no superior, acknowledges no authority paramount to its own. Underneath international law lies the *ultima ratio Regum*. Every independent state determines for itself, as exigencies arise, what shall be the penalty for infractions of the law which it prescribes. The sovereign whose territorial rights are violated by the subjects or citizens of a friendly state is not bound to appeal for reparation to (what might be) the tardy justice to be conceded by that state. If those subjects or citizens are within its territory, it will inflict on them its own penalty, in its own mode. An independent state is not circumscribed by the limits which are essential to the administration of municipal law, since by it the agents of the community protect from the aggression of the wrong-doer the individuals of which it is composed. Then if one of the Queen's subjects had violated the municipal law as flagrantly as the captors of the Chesapeake have outraged the international law, and such violation would have (as it unquestionably would) justly subjected the offending vessel to forfeiture, shall those who have violated the higher law be subjected to a less penalty? Assuredly not.

Then as to the right disposal of the forfeited vessel. It were derogatory to the royal dignity to add the proceeds of property which had belonged to the citizens of a friendly nation to the privy purse of the Queen, and it would as little become the honor of the British nation to make profit out of their misfortune.

What more appropriate mode of dealing with this vessel and cargo, then, than to restore them to their original owners? not as a favor to them, but as an act of justice to the offended dignity of the Crown; not as recognizing any right of the government of the United States to require such restoration, but as a fit punishment of the offenders, and a warning to others. The law which the Queen and the Parliament have prescribed to enforce the observance of her neutrality is to be found in her Majesty's proclamation, and in the statute under the authority of which it was issued. Is the offense which I have suggested against the municipal law, or can any offense be more serious than that by which the British nation might be drawn into the sad contest which has desolated and is still desolating one of the fairest portions of the earth?

By the affidavits on which I granted the warrant, it is certain that the Chesapeake, if a prize at all, is an uncondemned prize. For a belligerent to bring an uncondemned prize into a neutral port, to avoid recapture, is an offense so grave against the neutral state that it *ipso facto* subjects that prize to forfeiture. For a neutral state to afford such protection would be an act justly offensive to the other belligerent state.

The Chesapeake was brought, not into one port only, but into several of the ports of this province—not openly, but covertly—not in her proper name, but in a false name. Still further, they who thus invaded the Queen's territory surreptitiously landed and sold therein a considerable portion of her cargo, making no distinction between those parts of it which were owned by the subjects of her Majesty, and those belonging to the citizens of the United States; and instead of vindicating the rights which it was asserted for them at the bar they possessed, they (after landing on the shores of this province, and thus being under the protection of British law) have long since fled from and are still fugitives from it.

These are the facts on which I deemed it right to recommend at once that the vessel should not be unladen or removed from the custody of the provincial government, in order that she might be restored intact to her owners. I then thought, I still think, that it would not consist with the dignity of her Majesty, though the capture had been a lawful one, to hold valid a plea on behalf of these persons. The facts I have just mentioned must have been admitted, for they are in their nature incontrovertible.

This court has no prize jurisdiction, no authority to adjudicate between the United States and the Confederate States, or the citizens of either of these States. Yet, if a claim to the vessel and cargo could have been sustained, all further jurisdiction on my part over them must have ceased, and they must have been further disposed of by competent authority, and it would have in that case been my duty to have examined into the question of prize. As the case at present stands, I am rightfully exercising jurisdic-

tion; for the facts disclosed by the affidavits as to the actual taking of the vessel from the master and crew beyond all doubt constitute a piratical taking. The effect of upholding the plea of these captors might possibly be that, notwithstanding their gross misconduct, the vessel and cargo might be left to them. For, as his honor the administrator of the provincial government had directed the vessel and cargo to be brought into this court for adjudication, he could hardly then have resumed possession for any purpose. Impressed, then, by these strong convictions, as such a condition is dispensed with by the advocate general, I will not myself volunteer to impose (as a condition precedent to the restoration of the property) that their owners shall give bail to answer prospective claims; for, if I am rightly informed, the amount to be required would be at the least 80,000 dollars, and to insist on such bail might be equivalent to a refusal to restore the property.

Unlading the vessel, and the incident expenses, have rendered their ratable adjustment a matter of great difficulty; a difficulty, to be sure, which might be overcome by my decreeing a particular appraisal and valuation of the vessel and cargo to be made by the marshal, and a subsequent reference to the registrar and merchants. After a careful consideration, however, of this part of the case, I think it not unjust to order that the costs and expenses (except only the costs of these claimants whose property is to be delivered to them here, which, as well as those of the advocate general appertaining thereto, they are to pay) be paid by the owners of the vessel, leaving to them to adjust and seek repayment thereof from the shippers, insurers, and other persons chargeable therewith. If this were an ordinary case of recapture from pirates, the prescribed salvage would have been one-eighth of the value of the property, and this, on the value of the vessel alone, (which, I am informed, is more than \$60,000,) would have been \$7,000, and the owners of both vessel and cargo have been fortunate that they were not destroyed at sea, and so wholly lost to them. It is unnecessary to recur to the circumstances of the recapture. It suffices to remark that the taking was not an ordinary piratical capture. It is even possible not to have been a case of piracy at all. This court would stultify itself were it to affect ignorance of what is patent to everybody, namely, that those who wrested the Chesapeake from the master and crew are at the present moment in the adjoining province of New Brunswick, asserting that they made the capture as citizens of and parties duly authorized by the government of the Confederate States, and that they have produced documents and proofs thereof before magistrates there duly invested with the right to determine the validity of their claim, so far at least as affects their alleged piratical character. I allow this claim, and will decree a writ of restitution when moved, to be given to the claimants upon payment of the costs and expenses, as I have before specified.

The registrar will estimate as accurately as he can the amount which will certainly cover the whole costs and expenses, to be paid, as I have directed, by the vessel, and upon that amount being paid into the Bank of British North America, the bank of deposits of this court, he will issue the writ of restitution to the owners of the vessel. And he will, by orders on the said bank, pay to the several parties entitled to receive the same, such sums as he may have taxed and allowed, and the remainder, if any, he shall return to the said owners. In like manner he is to tax, and allow and cause to be paid by the claimants of that part of the cargo which has been, is, or is to be delivered here, all their costs, and the costs of the advocate general appertaining to their claims. The registrar will cause this judgment to be inserted in one of the city newspapers, and he will also cause to be printed, in the same manner as the affidavits in this cause are printed, this judgment, and also my remarks thereon of the 13th January and 10th instant, and attach copies thereof to this judgment, and also copies of the said affidavits. And the registrar will include in his bill the charge for the printing done and to be performed in this cause against the vessel, and pay the same to Alpin Grant, esq., the printer of this court, out of the sum to be deposited as aforesaid in the Bank of British North America.

COURT OF VICE-ADMIRALTY.

HALIFAX, January 13, 1864.

This court met to-day for the consideration of this case. On taking his seat the judge directed the registrar to cause the affidavits on which the warrant of arrest was granted, and, as the case proceeded, any other material documents, to be printed by the Queen's printer, for the use of the court and for transmission to England. He also ordered that officer to ascertain if a competent short-hand writer could be procured, as he should require one on every important hearing; and (remarking that the fees allotted to the judge by the fee-table were in all cases of very trifling amount) he desired the registrar neither to receive nor charge any fees for him in this case.

His lordship then said:

"On ordinary occasions it is of little moment what mistakes are made by those who report the proceedings of a court of justice, but in the present it is incumbent on me, so far as I can, to prevent even a temporary misapprehension of the course I shall pur-

sue. I have, therefore, reduced to writing what I endeavored to express on Saturday last, merely observing that I did not then modify any doctrine I stated at the outset of my remarks, nor do I intend to do so now.

"It is not at all extraordinary that gentlemen unacquainted with the law and practice of a court, which are in many particulars peculiar to itself, and which, during time of peace, is very unfrequently called upon, to misapprehend both. But this case not only brings before me, (incidentally to be sure,) but still calls for, examination and application, the principles of international law, and has, besides, also excited great interest and attention in the United States of America. I am naturally desirous that what I do or say as a judge in it should be accurately stated by the press. Now, in the first place, I have to remark, that it is in this court open to the judge in any stage of the proceedings, especially where the rights of the Crown are or may be involved in it, to indicate to the parties the proper course to be pursued, and upon the facts before him, if they cannot be gainsaid, (and those on which I have formed my opinion cannot be gainsaid,) to call their attention to the view of the law applicable thereto, which has occurred to him. It is his duty, therefore, sometimes to interfere, *ex officio*, as did the most eminent of my predecessors, Sir Alexander Croke, in the case of the *Herkimer*, in which he said: 'It is quite in accordance with the constitution of the court of admiralty for the judge to indicate, *ex officio*, to the parties any view which may seem to have an important bearing on their rights,' adding, 'such proceedings must necessarily be governed by the discretion of the court.'

"Now, the facts set forth in the affidavit on which I granted the warrant are, that the *Chesapeake* and cargo were forcibly taken on the high seas from those who were conducting her from New York, in the United States of America, to her port of destination, Portland, (she being a steamer carrying passengers, and a cargo owned by several shippers, some British, and some citizens of the United States,) by a number of persons who had gone on board as passengers at New York. That one of her crew was then slain by them. That those persons brought her into several of the ports of this province, giving her a false name. That they landed and sold a considerable part of her cargo. That they entered and remained in Sambro Harbor, within a short distance from this port, and on the approach of a ship of war of the United States, left the vessel and fled to the shore, and, while there, with fire-arms forcibly resisted process issued against them by lawful authorities here, signifying that on any attempt being made to arrest them they would use them; and, finally, that they are all now fugitives from justice. Unexplained, these circumstances certainly constitute a piratical taking, and such as required me to grant a warrant to arrest the vessel and cargo. Vague assertions and rumors to the effect that this taking of life and this capture were the acts of duly authorized belligerents, furnish no reply to such a case. Indeed, Mr. Ritchie suggested it as possible, and addressed me as *amicus curiæ* only. With reference to the principles he propounded they lie on the very surface of international law; and if those persons are really entitled to the character asserted for them, we have a right to expect that they should be prompt to vindicate that character before a British tribunal such as her Majesty's supreme court, on whom they might, I am sure, rely for protection, if the law entitled them to protection.

"Now the jurisdiction of the court of vice-admiralty over cases of piracy is exclusive, for the Crown has *jure coronæ* as droits of admiralty the absolute right of goods belonging to pirates, and also to those found in their possession if not claimed by their owners and proof made of their title. Until such claim is established they must remain in the custody of this court. At the end of a year, they are, if no claim is preferred, condemned to the Crown as droits of admiralty. Moreover this court is bound to see that salvors are properly rewarded. In the present case no such claim is preferred, or if preferred, it would not be listened to for a moment.

"It is not for me to deal with the gross outrage on the liberty of our fellow-subjects, and the contemptuous and coarse violation of her Majesty's proclamation and her territorial rights, perpetrated by officers of the navy of the United States. We may rest assured that these are safe in the hands of Earl Russell, a statesman who has ever been foremost in vindicating the rights of his countrymen in every part of the world. I do not doubt that his lordship will promptly demand that ample reparation be made by the government of the United States, and I confidently anticipate that that government will as promptly disavow and apologize for the conduct of their officers, and make full reparation to the sufferers. I think, too, we have all reason to be gratified that our gracious sovereign has been so fitly represented in the recent emergency by her representative, General Doyle. With the courtesy natural to him, and the spirit and decision which his high office and duty as a soldier taught him, his prompt measures to obtain the release of our fellow-subjects so ignominiously treated, cannot but secure to him the gratitude of every Nova Scotian.

"From the first I thought it probable that the case would come before me, and therefore I, as carefully as I could, considered the principles which, if it should, must govern my proceedings. I knew, indeed, that though his honor the administrator of the government might, as representative of the Queen, possibly direct the vessel and cargo to

be delivered at once to their respective owners, yet for him to do this without waiting for the instruction of her Majesty's government, I also knew would be assuming a very grave responsibility. Besides, this case is *prima impressionis*, and in many of its aspects full of difficulties. *Prima facie*, the facts before his honor, and, of course, submitted to his legal adviser, the advocate general, exhibited an undoubted case of piracy. But it was well to pause before presenting it to this court as such, in order that all the circumstances should be fully ascertained. Moreover, the nature of the cargo shipped by British owners as well as citizens of the United States, rendered it extremely difficult for the local government to aid his honor, since they had no authority to administer an oath to the claimants, and no machinery to effectively ascertain their respective rights. What the government could do, they did promptly and well, and by their vigilance and activity much of the goods clandestinely landed from the Chesapeake have been saved for the owners.

"Looking, then, at the circumstances of this case, I (in the exercise of the discretion of which I have already spoken) thought it well, with a view to preventing further delay and saving the heavy expense attendant on this litigation, to suggest at the outset to the parties the course which the incontrovertible facts of the case had led me to adopt, viz, that the owners of the vessel and cargo should conjoin their claims, instead of presenting separate claims, and thereby render unnecessary the unlading the cargo, and enable the vessel at once to resume her original voyage. I had previously directed the marshal not to take the rigging from or otherwise dismantle the vessel, but to wait on his honor the administrator of the government and the authorities at the dockyard and the provincial government, and ask them to permit the vessel and cargo, and that part of the cargo the possession of which had been obtained by the officers of the provincial government, to remain as at present until some further order should be made therein by this court, and this was immediately conceded. I granted the decree of unlivery, for which the advocate general moved, to be used at his discretion, and directed the respective claimants to confer with each other, and to submit their proofs to him preparatory to their moving for the restoration of their property. On this occasion Mr. Wyld, the proctor of one of them, signified his client's desire that his portion of the property should be delivered here. Appearances on behalf of the vessel and parts of the cargo have been filed, (I take it for granted the proctors have filed their proxies, duly authenticated,) but no appearance has been given for the alleged captors.

"In the course of his address, Mr. Ritchie suggested that but for fear of his being delivered upon the demand of the government of the United States, under the extradition treaty, the principal person engaged in the capture would appear openly and make a claim. Captures lawfully made by a belligerent may, by subsequent misconduct of the captors, in respect to such captures, so divest themselves of their vested right as to take from them the aid of the court of admiralty. Now the consideration of such a claim as Mr. Ritchie suggests, though but an incident of the cause over which, in virtue of its constitution and power, it has and exercises original jurisdiction, calls on me to proceed upon the common law of the admiralty, and the enlarged principles of international law which guide this court, in contradistinction to those circumscribed technicalities and rules which obtain in other courts. Yet, even in the courts of common law and equity, we have the maxims that 'a man must come into court with clean hands;' 'that he who seeks must do equity,' and the like. A mere reference to the admiralty reports will show that such subsequent misconduct has the effect I have mentioned. More than sixty years ago, Sir Alexander Croke decided, not on a statutory provision, but on the common law of the admiralty, in the case of *La Reine des Anges*, that the right of a captor to a prize which had vested in him, was, by his subsequent conduct, in respect to the captured vessel, wholly divested, and he condemned her as forfeited to the Crown *jure coronæ*.

"Now the course of proceedings in this court in this case, as prescribed under acts of the Imperial Parliament, will be this: The proctor general, on behalf of the Crown, will file a libel, setting forth therein as piratical acts all the circumstances I have detailed; and if any claim be put in either on behalf of the person to whom Mr. Ritchie referred, or of the Confederate States—assuming that the latter have such a corporate character as to give them a right as a nation to a *locus standi* in this court, (as to which I will say nothing more at present,) and assuming further that the Chesapeake was lawfully captured, then those circumstances must be all admitted by the plea of such a claimant.

"Now by clause 3 of section 12 of our rules, it is prescribed to the judge as his duty 'to reject immediately all pleas which, if assumed to be true, will not justify him in pronouncing a decree for the party pleading such plea,' for in this court both parties are actors. The effect of my decreeing such a plea to be valid would be to deliver the vessel and property to the claimant. But am I, sitting as the judge of a court of admiralty, and representing her Majesty in it, to sustain the plea of men who have violated her proclamation of neutrality, offered an affront to her dignity—of men who, claiming to be belligerents and not seeking the privileges which the courtesy of neutral powers extends to belligerent vessels, but who have grossly, and willfully, and stealthily

violated her territory, and sold goods therein—who have with revolvers and lawless force violently resisted on the same territory the officers seeking to execute the process of her magistrates, and who are at this moment fugitives? If, indeed, these people had entered this port claiming the privileges usually accorded to belligerent vessels by neutral states, then the principles referred to might perhaps have been invoked on their behalf before a tribunal authorized to consider them. But this court of vice-admiralty has no such authority, except, as I have said, as incidental to the jurisdiction which it rightly exercises in cases of piracy. Among the principles I have referred to, is that one by which neutral property, not being contraband, found by belligerent captors on board of a prize, is restored to the neutral owners. But unless the view of the course I propose to pursue be correct, I have no authority to decree a delivery of that claimed in this case by British owners; still less, if possible, to order the vessel to be restored to her owners.

"I trust that a judicial career of now nearly eighteen years has enabled the bar to believe that I am capable of altering my opinion, when counsel shows that it is erroneous. I confess, as at present advised, I should feel it my duty to reject such a plea; and had the facts been capable of being controverted or materially modified on which my opinion is founded, I should have studiously refrained from expressing it at this early stage of the cause. But the rights of British owners are concerned, large expenses are being daily incurred, and I am desirous, as I have said, to diminish them, and to expedite those proceedings. The conduct pursued by the persons who seized the *Chesapeake*, after the seizure—though it were a lawful seizure—has, as I think, by international law, rendered their prize subject to forfeiture to her Majesty, to be dealt with as to her may seem fit."

At the close of the proceedings his lordship informed the advocate general that under the facts before him, unless they were altered by evidence, he would treat it as a case of piracy throughout.

COURT OF VICE-ADMIRALTY.

HALIFAX, February 10, 1864.

On taking his seat upon the bench, his lordship stated, that the appointment of a printer, and of a short-hand reporter, to the court, having been recently authorized, he had appointed Mr. A. Grant to the first named office, and Mr. John J. Bourinot to the latter; whereupon the registrar of the court presented to the respective parties the commissions which his lordship had been pleased to grant.

On granting the motions for writs of restitution of such parts of the cargo of the *Chesapeake* as were claimed and their claims allowed on Friday, the 5th of February, his lordship remarked:

"What I have said and done in this cause has been greatly misunderstood and misrepresented, and it is of much importance that this should, as far as possible, be prevented from again occurring. I have, therefore, thought it well to reduce to writing what I have to say in decreeing these writs as prayed. It has been thought, for example, that my proceedings will be in effect deciding in favor of the demands made by the government of the United States upon the governments of this and the adjoining province of New Brunswick, for the delivery, under the extradition treaty, of the captors of the *Chesapeake* as pirates. But with questions or rights under that treaty, this court has no concern—no authority to interfere, directly or indirectly. And the view I have taken of the case before me can and could in no wise affect that demand, even if it were invested with full authority to adjudicate upon it. I grant these writs, and I am prepared to decree the same writs in order to the restoration of the vessel and the remainder of the cargo to their original owners, upon due proof of their title to them and payment of the costs and expenses which have been incurred. Those which have now been preferred I will examine and pronounce thereon on Saturday next. It will be recollected that at the commencement of these proceedings I stated that in my view, assuming the captors of this vessel to be lawfully authorized belligerents, they had forfeited their rights; that I could not, therefore, entertain a plea on their behalf, and that the proper course to be pursued was to restore the vessel and cargo to their original owners. Subsequent research and reflection, and circumstances which have since occurred, have confirmed this view, and also enabled me to state that in my early announcement of it I rightly exercised the discretion which is constitutionally reposed in a judge of a court of admiralty. Still, if, these opinions be erroneous, they can be readily corrected. This court (though it administer its functions in Halifax) is an imperial tribunal, acting by the authority of acts of the Imperial Parliament, and guided by international and maritime as well as municipal law; and from its decrees an appeal lies to the highest appellate tribunal but one in the empire. If, therefore, these captors have the rights which it has been suggested at the bar belongs to them, the confederate government and its agents can have no difficulty in effectively vindicating them. The announcement of those views was received with but scant deference. They, especially the intimation that the *Chesapeake* and her cargo should be forthwith restored to their owners, were promptly denounced as inconsistent with that

common sense, the application of which, it was said, to legal problems, was all that was required for their solution. This reception of them troubled me but little, as I felt that no personal disrespect could be intended; but the conduct of a portion of the press in these colonies has given me great concern. Free and fearless criticism of the proceedings of courts of justice, such (and such only) as one sees in the great leading organs of public opinion in England, is an essential corrective of these proceedings. But the circumstances of this case, it is well known, have excited the most angry feelings throughout the United States, and the epithets and strictures, and the unworthy motives and conduct imputed to this court, and to myself as judge of it, are as unpatriotic as they are un-English, for they can have no other tendency than to exasperate these feelings, and justify alike the confederates and the federals in treating with contempt any decree which it may pronounce."

Motions were then made by the several counsel in reference to the vessel and cargo, after which his lordship stated that on Monday next he would give judgment, which would be in the nature of a final decree in the case. The court then adjourned till Monday next at 11 o'clock.

PROVINCE OF NOVA SCOTIA.—IN THE VICE-ADMIRALTY COURT OF HALIFAX.

Appeared personally, James William Johnston, of Halifax, in the said province, barrister-at-law, advocate and procurator general, and being duly sworn to depose the truth, did make oath and say:

That a steamship called the Chesapeake was lately brought into the harbor of Halifax, and surrendered to the provincial authorities by A. G. Clary, esq., as commander in the United States Navy, in command of the United States war steamer *Dacota*, who represented that the said steamer Chesapeake had been taken possession of in the harbor of Sambro, in this province, by the United States gunboat *Ella* and *Annie*.

That application was made by the acting United States consul to his honor the administrator of the government for a warrant under the extradition treaty between Great Britain and the United States, and the act of Parliament made for giving effect to the treaty, to authorize proceedings for the extradition of certain persons charged with an act of piracy in seizing the said steamer Chesapeake on the high seas, and the killing of a man belonging to her; and afterwards a warrant was issued by the mayor of the city of Halifax for the arrest of these three persons, or some of them, on certain affidavits, of which copies marked A, B, C, are hereto annexed, as appears by reference to the proceedings in that behalf had before the mayor. That the signature and addition to the jurat of the said three affidavits, "P.-C. Hill, mayor and j. p.," are of the proper handwriting of Philip Carteret Hill, the mayor of the said city, and justice of the peace within the same, with which this deponent is well acquainted.

That the said affidavits were made, and the last mentioned warrants issued thereon, on a charge of alleged piracy and murder on board the said steamer on the high seas, and her capture from the possession of the master under whose control she was sailing, for the purpose of procuring the arrest of the parties accused under the said treaty and act of Parliament, with a view to their extradition. And the said affidavits, being the foundation for the said warrant, cannot be procured to annex hereto, but remain with the said mayor in the proceedings had or which may be had before him thereon, and the deponent saith that he has carefully collated and compared the paper writings hereto annexed, marked A, B, C, and with the said original affidavits, and that the said paper writings respectively are true and correct copies of the said original affidavits.

And further, the deponent saith, that from reports received from, and investigations made by, officers of the revenue, under the authority and direction of the provincial government, it has been ascertained that the said steamer Chesapeake after her capture was brought to Nova Scotia by her captors, and was taken into the ports of Shelburne and La Have, where quantities of her cargo laden at New York were landed, a portion at La Have, under permit of a custom-house officer, acting without due consideration or authority, and the remainder secretly, and without the pretence of authority, and in violation of the revenue laws of this province. That of the former, property of considerable value has been arrested in Halifax, and is now in charge of the provincial government. The two officers of the provincial customs were sent from Halifax to discover and secure as much of the cargo of the Chesapeake as possible, by whom a small portion was recovered, which is also under the charge of provincial authorities. That a considerable portion of the cargo, it is understood, remains on board.

And the deponent saith that the said steamship Chesapeake and portions of her cargo are now held by the provincial authorities, subject to all such rights and responsibilities as legally attach thereto, and to such judicial decision thereon as may be lawfully made in the premises.

J. W. JOHNSTON.

Sworn before me, this 6th day of January, A. D. 1864.

JAMES R. SMITH,
Registrar of the Vice-Admiralty Court at Halifax.

A.

HALIFAX: THE DEPOSITION OF JAMES JOHNSTON.

I was chief engineer on board the steamship Chesapeake, bound from New York to Portland. There were twenty passengers on board. At half-past 1 o'clock on the morning of the 7th December, being off Cape Cod, had just gone off watch, I was waked up by report of pistols and some person screaming; I went on deck, found the first assistant engineer dead. I raised him up and asked what was the matter; got no reply, and went below, where I was shot in the chin by a passenger named Brooks; I heard Brooks tell a man when we were in La Have River that he had fired five or six shots, and had killed the first assistant engineer. After I had got the shot in the chin I went across the engine room and found the mate there. I asked him what was going on; he told me that he was shot in two places; I saw the wounds afterwards. Mr. Braine, commonly called J. C. Braine, Lieutenant Parr, David Collins, ——— Brooks, Isaac Tredwell, two brothers by the name of Moore, two brothers by the name of Cox, ——— Kenny, George Wade, George Sayers, ——— Seeley, William Harris, took charge of the ship, and put the captain in irons, and told us we were all prisoners to the confederate flag, and hoisted the confederate flag in Shelburne. They compelled me to stay with them, being the engineer. Part of the cargo was sold in different ports on the shore. Never saw any commission to Braine, or uniform on any of the men. The persons above-named wore pistols, and guarded me while on my watch; they were all concerned in the capture of the ship.

JAMES JOHNSTON.

Sworn to at Halifax, this 18th day of December, A. D. 1863, before me,

P. C. HILL,
Mayor and Justice of the Peace.

B.

And this deponent, George G. Ames, being duly sworn, saith:

I belong to Maine. I was cabin boy on board the steamer Chesapeake. She started from New York for Portland at three o'clock on Saturday afternoon. On the following Monday, about half past one o'clock, I was sleeping in the back part of the ship on a lounge with the cook, and was awoke by a scuffling on deck. I asked the cook what the trouble was; he said they were taking in sail; next I heard the report of pistols on deck, and groans. I rushed to the companion, and was told to surrender to the southern confederacy by the men who guarded it. I then went back behind the companion way; the guard told me if I would be peaceful I should be landed with the passengers and crew, and treated well. Soon after, Lieutenant Parr came down; I asked him what the matter was; he said we were prisoners to the Confederate States. I asked him who was killed; he told me the second engineer was dead and overboard. None of the persons were in uniform. We ran down to Grand Manan, remained there about four hours. Braine ordered the boat down and went ashore; came on board shortly after and ordered the ship under way about five o'clock in the afternoon. About ten miles from St. John we were put on board the pilot-boat and taken to St. John. I could identify the whole of them, but did not know their names; they compelled three firemen and two engineers to remain on board when the rest of the passengers and crew were put on board the pilot-boat.

GEORGE G. AMES.

Sworn to at Halifax, this 18th day of December, A. D. 1863, before me.

P. C. HILL,
Mayor and Justice of the Peace.

C.

And this deponent, Mary V. Burgoyne, of Jersey City, in the State of New Jersey, on her oath saith as follows:

I was stewardess on board the steamer Chesapeake. There were twenty passengers on board, all men. On Monday morning, December 7, at half-past one o'clock, I heard some person come into the cabin. I looked out, saw the mate, Charles Johnston, going into the pantry; while he was there I heard the noise of a pistol in the engine-room; saw the state-room from the pantry to the engine-room. I shut my door, and afterwards heard a great number of pistol shots; some one knocked at my door—it was the

cook, he asked if I was frightened; I said no. I asked if all hands were killed; he said no, but that we were prisoners to the confederates, and while we behaved well nothing would happen to us. About two o'clock, Captain Willet, the master of the Chesapeake, came to my room and knocked; he was in irons. He told me not to be frightened, that he had begged them to let me be; the chief engineer came next and told me the same thing. Parr, one of the leaders of the rebels, came with him, and also told me so, that he would land us at the first place he came to. Next day at five o'clock we were sent on shore in a pilot-boat to St. John, except the chief and third engineers, and three firemen, who were kept on board. Four of the passengers were put on board the pilot-boat, and the remainder, sixteen, stayed on board the Chesapeake; their names were Henry C. Braine, otherwise J. C. Braine, Henry A. Parr, George Brooks, George Sayers, otherwise George Robinson, George Moore, Robert Carr, Robert Cox, Gilbert Cox, James Kinney, James Wilson, otherwise George Wade, Robert Moore, — Collins, — Seely, William Harris, and — Osburne, who piloted the ship from Cape Cod to Grand Manan. These were the sixteen that remained on board when we left; they were all concerned in the capture of the steamer. None of them wore uniforms, and I saw no flag at any time; they were all armed; three of a guard in the cabin at a night, and one in daytime.

MARY V. BURGOYNE.

Sworn to at Halifax, this 18th day of December, A. D. 1863, before me,

P. C. HILL,
Mayor and Justice of the Peace.

PROVINCE OF NOVA SCOTIA.—IN THE VICE-ADMIRALTY COURT OF HALIFAX.

Appeared personally, William Henry, of Halifax, in the county of Halifax, and province of Nova Scotia, engineer, and Alexander Henry, of Halifax, in the said county and province, engineer, and each of them being duly sworn to depose the truth, did each, for himself severally, make oath and say:

That they are brothers, natives of that part of Great Britain called Scotland, and natural-born subjects of the Kingdom of Great Britain, and each for himself says that he has never been naturalized in or come under the allegiance of the United States of America, or any other foreign kingdom. That they left Scotland together about eleven years ago, and went to the United States, but they have been principally in the British North American provinces, where they have worked at their business of engineers, on shore or on board of steamers, and have lately resided at Halifax, in Nova Scotia. That on Wednesday, the 16th day of December last, they were requested by a person, with whom they were unacquainted, to engage on board a steamer represented to be then in Sambro Harbor, about sixteen miles from Halifax, as engineers, and being out of employment, these deponents entertained the proposal so far as to settle on the amount of their wages, and agree to visit and inspect the vessel, upon the understanding that if satisfied with her they would enter into written articles there, and if not satisfied would return to Halifax.

That upon this understanding these deponents left Halifax on board the schooner Investigator, laden with coals for the said steamer, about 11 o'clock on that Wednesday night, and reached Sambro about half-past 3 o'clock on the next morning, being Thursday, the 17th day of December last, when the schooner went alongside a steamer which was lying at anchor a little inside of the mouth of Mud Creek, within Sambro Harbor, and within the county of Halifax, in the province of Nova Scotia. That these deponents understood the said steamer to be the vessel called the Chesapeake that had been captured a short time before off the American coast. That a person was on board who was called the captain, and appeared to be in charge of the steamer, and to have command of his crew, and these deponents heard him give instructions for putting the coal from the schooner into the steamer. That the deponents soon after turned into berths in a state-room in the steamer's cabin and went to sleep; and the deponent William Henry says, that between 7 and 8 o'clock next morning, on the same 17th day of December, he was aroused by a person calling and saying that a gunboat was approaching, whereon the said deponent William Henry went on deck, and perceived a steamer about three miles off, and within Sambro Light-House Island, approaching in a direct course towards the Chesapeake; that the said deponent found great confusion to prevail on the deck of the Chesapeake, where the men were employed in clearing a boat and other preparations for leaving the vessel, with several shore boats alongside. The captain in command of the Chesapeake was on deck, and ordered the said deponent on his coming up to get up steam, who, in obedience to that command, went below into the fire-room, and then shut the furnace doors, the fires being on but damped, and after being below about five minutes the said deponent came on deck, when he observed the approaching steamer coming up the harbor, still steering toward and then within about two miles from the Chesapeake. That on coming on deck on this second occasion, the said deponent found that the

captain and all the crew had left the *Chesapeake*, and were then in boats proceeding toward the shore, where they all landed and disappeared, and the schooner *Investigator* had hauled off and come to an anchor about four hundred or five hundred yards from the *Chesapeake*. That the steamer *Chesapeake* all this time was at anchor about two hundred or three hundred yards from the shore, with a small cove ahead, further into which the schooner *Investigator* moved and anchored, as aforesaid; the schooner, when so at anchor, being about three hundred or four hundred yards from the shore. That after the said deponent came on deck this second time, and after the captain and crew of the *Chesapeake* had left her, several persons remained on board, who represented themselves to have belonged to the crew of the *Chesapeake* before and at her capture; one of whom, when the gunboat had neared the *Chesapeake* to within a short distance, and was still approaching her, and when the captain and crew had left the vessel and made their escape as aforesaid, hoisted the United States flag, the Union down, and after it had floated for two or three minutes in that manner hauled it down and re-hoisted it with the Union up. That the approaching steamer, which proved to be the United States gunboat *Ella* and *Annie*, came alongside the *Chesapeake*, and a number of armed men came from the gunboat on board the *Chesapeake* and took possession of her. And this deponent, the said Alexander Henry, says that while he was still in his berth an officer with a drawn sword came into the cabin where he lay, and ordered the deponent to rise and come on deck, which he did. And these deponents say, that while on the deck of the *Chesapeake*, being questioned by a person they understood to be the captain of the *Ella* and *Annie*, they informed him they were British subjects, resident in Halifax, and had only come on board the *Chesapeake* early that morning for the purpose of engaging as engineers, should they approve the condition of the vessel and her machinery; and the engineer who had belonged to the *Chesapeake* before her capture informed the said captain of the *Ella* and *Annie* that these deponents had only come on board that morning, and were not connected with those who had been concerned in the capture of the *Chesapeake*. Nevertheless, these deponents were ordered by an officer of the said gunboat to go on board of her, which they were compelled to do, and where they were immediately heavily ironed, both on the wrists and ankles; and soon afterwards a man was put with them, and also placed in irons, who they understood from persons on board the gunboat had been taken from on board the schooner *Investigator*, in the said harbor.

That while the said two steamers lay together in Mud Creek, as aforesaid, coals were shipped from on board the gunboat into the *Chesapeake*; and in three or four hours after the gunboat had taken possession of the *Chesapeake*, the two steamers were got under way, and these deponents were informed by some of the crew of the gunboat that they were bound for Boston, and at a later period, that the course had been changed for Halifax, by order of another United States man-of-war they had fallen in with. That these deponents, together with the said other prisoner, who, they understood, was called Wade, were kept on board the said gunboat *Ella* and *Annie* in close confinement, and heavily ironed on the arms and legs, for over fifty hours; and on Saturday, the 19th day of December last, they and the said Wade, all being handcuffed, were brought up and put into a boat under charge of an officer and part of the crew of the *Ella* and *Annie*, and were taken to the Queen's wharf at Halifax, when by the said officer they were delivered to the sheriff of the county of Halifax, by whose direction the said officer caused their handcuffs to be taken off, and the sheriff thereupon declared them to be free. And these deponents say that their clothing, contained in a large trunk and canvas bag, was on board the schooner *Investigator* when the *Chesapeake* was taken possession of by the gunboat. That they were informed by the said Wade that a number of trunks and other property had been taken by the men of the gunboat from the schooner, and brought on board the gunboat, among which, from the description he gave, were the clothes of these deponents. That these deponents applied to Mr. Gunnison, the United States acting vice-consul, for the restitution of their clothes, on Saturday, the nineteenth day of December last, who, in the presence of their counsel, John W. Ritchie, esq., promised they should be delivered to them, and stated that the *Ella* and *Annie* would not leave Halifax before Monday. That the said vessel left on the Saturday night, and on Monday, on applying to Mr. Gunnison for their clothes, he denied that he had promised to get them, and the deponents have lost their said clothes, to the value of one hundred dollars.

WILLIAM HENRY.

his
ALEXANDER + HENRY.
mark.

Sworn before me, (the same having been read over to the deponents,) this fourth day of January, A. D. 1864.

JAMES R. SMITH,
Registrar Vice-Admiralty Court at Halifax.

PROVINCE OF NOVA SCOTIA.—IN THE VICE-ADMIRALTY COURT OF HALIFAX.

Appeared personally John E. Holt, of Halifax, in the province of Nova Scotia, master mariner, and being duly sworn to depose the truth, did make oath and say that he is a native of the province of Nova Scotia, and a natural-born subject of Great Britain, and has never been naturalized or acknowledged allegiance to any other state. And he says that being the owner and master of the schooner Investigator, of twenty-five tons burden, he was engaged to take a load of coal to a steamer lying at Sambro; and on Wednesday, the 16th day of December last, at about 11 o'clock, he left Halifax in the said schooner with a load of coal and reached Sambro at 3 o'clock on Thursday morning. That a steamer was then lying in the mouth or entrance of Mud Cove, a harbor inside of Sambro headlands, and about two hundred or three hundred yards from the shore, and in a situation where she was conspicuous to vessels passing into or out of the harbor of Halifax.

That the deponent placed his schooner alongside of the steamer, and commenced transshipping the coal as he had been directed to do at Halifax, being assisted by the crew of the steamer. That about 7 o'clock on the morning of the last-mentioned day, the deponent saw a steamer off Sambro steering westwardly, but which as soon as she had opened the harbor bore up north, and stood right in and toward the first-mentioned steamer and the deponent's schooner. That the crew of the steamer alongside of which the deponent's vessel was lying, and which the deponent understood to be the Chesapeake, when it became apparent that the steamer outside was bearing toward them, made their escape to the shore, having put a number of chests, a quantity of loose clothing, and other articles on board the schooner, and the deponent hauled his schooner off and proceeded about four hundred yards further into the harbor and came to anchor. That there remained on board the Chesapeake several men whom deponent understood had belonged to her original crew before her capture off the American coast, of which deponent had heard. That after the deponent had hauled off from the Chesapeake about a quarter of an hour one of the men on board hoisted the United States flag upside down, the approaching steamer being about four hundred yards distant from the Chesapeake, and bearing towards her; in a few minutes the flag on board the Chesapeake was hauled down and hoisted with the Union up, by which time the approaching steamer, which proved to be the United States gunboat Ella and Annie, was close to the Chesapeake, and which vessel she immediately afterwards boarded.

That about an hour afterwards a boat with seven armed men came on board the deponent's schooner. That the officer in command having ordered his men to open the hatches, the deponent demanded his authority, when the officer placed his hand upon his pistol and said "This is my authority," and, at the same time, three of the men presented their pistols at the deponent. That some of the boarding party remained on deck with pistols in their hands, while others went below; they ransacked the schooner throughout, and took away a large number of trunks, bags, and loose clothes, and any articles they could find that they supposed belonged to the men who had been on board the Chesapeake, including the chest and bag of two men named Henry, who had gone down in the schooner from Halifax. That they also made prisoner of and carried away a man whose name deponent afterwards understood was Wade, who came on board the schooner from the Chesapeake when the gunboat was approaching. That this deponent remonstrated with the officer in command of the boat's crew against the outrages committed on board his vessel, who replied that deponent had better be quiet or he would make a prisoner of him and take him to Boston, where he, deponent, would make a good witness.

JOHN E. HOLT.

Sworn before me, this 4th day of January, A. D. 1864.

JAMES R. SMITH,
Registrar Vice-Admiralty Court at Halifax.

PROVINCE OF NOVA SCOTIA.—IN THE VICE-ADMIRALTY COURT OF HALIFAX.

HALIFAX, 88 :

Appeared personally Patrick Connors, of New York, in the United States of America, fireman, and being duly sworn to depose the truth, did make oath and say :

That in the afternoon of Saturday, the 5th day of December last, he sailed in the capacity of fireman on board the steamship Chesapeake, from New York, bound to Portland in the State of Maine, in the United States, with passengers and freight on board. That the said steamer had been and was then employed as a regular packet, for the conveyance of freight and passengers between New York and Portland. That while on the said voyage, and off Cape Cod, at about 2 o'clock in the morning on Monday, the 7th day of December last, this deponent being on duty in the fire-room, four men armed

with pistols rushed into the fire-room and seized the deponent, and put him in irons having first fired a pistol close to him. That the second engineer, named Shaffer, having come into the fire-room and inquired the cause of the disturbance, one of the men fired a pistol at or near him, upon which the said Shaffer raised his hands to his face and ran out of the fire-room calling for the captain. That this deponent remained in the fire-room in irons for about one hour and a half, during which time three of the four said armed men continued to move between the fire-room and engine-room. That the fires having got low, the deponent was released from irons and ordered by the said party to attend to the fires, and one of them stood over him with a pistol to see that he did so, and from that time until the Chesapeake was brought from Sambro to Halifax, he, the deponent, two other firemen, the assistant engineer, and the chief engineer, belonging to the said vessel when she left New York, were compelled to attend to the fires and engines under a guard of armed men. That from the time when the party of armed men seized the deponent and put him in irons in the fire-room, as before mentioned, the said vessel continued under the control and direction of the said party, and those who acted with them from that time, until taken possession of at Sambro by the United States gunboat Ella and Annie, on Thursday, the 17th day of December last.

That after the capture of the Chesapeake, as before mentioned, a number of passengers who had left New York in her, her captain and all her crew, except the five persons above mentioned, were sent on shore at New Brunswick. That the deponent and the rest of the said five persons were desirous and demanded to leave the Chesapeake at the same time, but were forcibly detained on board by the persons in whose charge she then was, and that a person came on board about that time who assumed the command of the vessel, and of the party by whom she had been captured. That the said steamer Chesapeake was afterwards taken into Shelburne in Nova Scotia, where she remained over the night, and during that night a quantity of goods, part of her cargo from New York, were taken out of the vessel and carried on shore, as this deponent is fully assured from the movements he heard on board the vessel, and the conversation of the crew. That from Shelburne the steamer was taken into La Have, where she remained over two nights, and when also was taken out of her and carried on shore a quantity of her cargo, as this deponent is perfectly assured, by the means aforesaid. That part of these goods were taken out while the vessel lay up the river of La Have, nearly abreast of a large church, and she afterwards dropped down the river and lay all night at or near the mouth of the river, and during that night a vessel came alongside, into which goods from the Chesapeake were put, and a vessel had also been alongside of her for the same purpose at Shelburne.

That while at Sambro, the deponent was informed by the chief engineer that he and the four other men, including this deponent, who had belonged to the Chesapeake when she left New York, were to be put on shore at Sambro, in consequence of two engineers having been engaged at Halifax, and two firemen, and in consequence this deponent and his said comrades prepared their chests for leaving the vessel; but before the arrangement could be carried into effect, the United States gunboat Ella and Annie came in sight, and when it was seen that she was bearing down towards the Chesapeake, the crew of that vessel made their escape on shore, leaving on board the five men of her original crew, and two engineers who had come from Halifax. That after the officers and crew who had command and charge of the Chesapeake had left the vessel, and while the gunboat was rapidly approaching the Chesapeake, the chief engineer hoisted the United States flag with the Union down, and when she had got nearly alongside, rehoisted it with the Union up.

That the Ella and Annie put a crew and pilot on board the Chesapeake, and the two vessels got under way and left Sambro together, on the said 17th day of December. That the deponent was aware that the Ella and Annie, some time after she had been under way from Sambro, was spoken by another vessel, which he learned to be the United States man-of-war Dacotah, but what passed he could not hear, and cannot say. And the deponent saith that when the said steamer Chesapeake was under way leaving Shelburne, the deponent, while passing from the fore-castle to the fire-room, saw the confederate flag flying at the main peak.

PATRICK CONNERS.

Sworn before me, this 6th day of January, A. D. 1864.

JAMES R. SMITH,

Registrar, Vice-Admiralty Court at Halifax.

Mr. Seward to Mr. Adams.

852.]

DEPARTMENT OF STATE,

Washington, February 24, 1864.

SIR: I have the honor to give you herewith a copy of the decision of the vice-admiralty court of Nova Scotia, which directs the delivery of the Chesapeake and her cargo to the owners, upon payment of costs.

By direction of the President I have advised that the owners pay the costs under protest. This government still adheres to the opinion that it was its right, under the circumstances of this case, to have an immediate and unconditional restitution of the Chesapeake and her cargo by executive authority, without waiting for an adjudication; nevertheless, it accepts the restitution so far as it has been ordered, and in the form in which it has been adjudged, and willingly leaves further claim for future consideration, being satisfied that her Majesty's provincial authorities in Nova Scotia have conducted their proceedings, in this matter, in a spirit at once just and friendly towards the United States; and that the judgment rendered reflects honor upon the enlightened magistrate who presides in the vice-admiralty court.

I am, sir, your obedient servant,

WILLIAM H. SEWARD.

CHARLES FRANCIS ADAMS, Esq., *q.c.*, *q.c.*, *q.c.*

[For decision of the vice-admiralty court, see inclosure to No. 26, from British Blue Book, p. 327, *ante*.]

[From British Blue Book, "North America," No. 9, 1864, p. 95.]

No. 30.

Lord Lyons to Earl Russell.

WASHINGTON, February 29, 1864.

MY LORD: I have the honor to transmit to your lordship a copy of a dispatch addressed by Mr. Seward to the United States consul at Halifax, in which it is stated that this government, while it adheres to the opinion that the delivery of the Chesapeake ought to have been made at once by executive authority, is nevertheless gratified with the just and friendly proceedings of the officer administering the government of Nova Scotia, and appreciates the enlightened and impartial spirit by which the vice-admiralty court has been guided in the case.

Mr. Seward gave me a copy of this dispatch the day before yesterday, and authorized me to communicate it to your lordship and to Major General Doyle. I send a copy of it to the major general to-day.

I have also the honor to transmit to your lordship a copy of a note in which, in obedience to the instructions contained in your lordship's dispatch of the 3d instant, I have informed Mr. Seward that her Majesty's government accept the apology of the United States for the violation of her Majesty's territory committed by the United States officers in pursuit of the Chesapeake.

I have, &c.,

LYONS.

[Inclosure No. 1.]

Mr. Seward to Mr. Jackson.

WASHINGTON, February 24, 1864.

SIR: Your dispatch of February 17 has been received. I learn from it that the court of vice-admiralty has decreed that the Chesapeake and her cargo shall be delivered to her owners, on the condition of their payment of costs.

Under the President's directions I shall make this proceeding the subject of a communication to her Majesty's government. In the mean time I think it not improper to inform you that this government, while it adheres to the opinion that the delivery of the Chesapeake ought to have been made promptly and unconditionally by executive authority, is nevertheless gratified with the just and friendly proceedings of his excellency the Governor of Nova Scotia in the premises, and appreciates the enlightened and impartial spirit by which the vice-admiralty court has been guided in a case attended with some embarrassment and much local excitement.

The Secretary of the Navy will be informed of your views in regard to the necessity for a convoy of the Chesapeake.

I am, &c.,

WILLIAM H. SEWARD.

[From British Blue Book, "North America," No. 9, 1864, p. 94.]

No. 29.

Earl Russell to Lord Lyons.

FOREIGN OFFICE, March 11, 1864.

MY LORD: I have received and considered, in communication with the law officers of the Crown, the further correspondence respecting the case of the Chesapeake inclosed in your dispatch of the 1st of February.

The observations which you make in that dispatch on the tenor of Mr. Seward's note of the 18th of January, which forms one of its inclosures, appear to her Majesty's government to be well founded; but as the case would seem to be disposed of by the judgment of the colonial court directing that the Chesapeake and her cargo should be restored to the owners, there is less necessity for dwelling on the erroneous views which Mr. Seward puts forward in his note.

Mr. Seward can hardly be ignorant that so far as the extradition of the men, whom he assumes to have been pirates, is concerned, it would have been improper, and was in fact impossible, for the government of Nova Scotia to proceed otherwise than in the course pointed out by law; neither can Mr. Seward seriously intend to suggest that the provincial government, charged with the duty of vindicating her Majesty's territorial rights, when those rights had been invaded in a manner for which the government of the United States have found it necessary to apologize, could have adopted or ratified the unauthorized exercise of power over the persons found on board the Chesapeake, by which the invasion of her Majesty's rights was accompanied and aggravated.

I am, &c.,

RUSSELL.

[From British Blue Book, "North America," No. 9, 1864, p. 94.]

No. 27.

The Duke of Newcastle to Major General Doyle.

DOWNING STREET, March 12, 1864.

SIR: I have the honor to acknowledge the receipt of your dispatch of the 18th of February, transmitting papers by which it appears that the judge of the vice-admiralty court at Halifax has decreed the restoration of the Chesapeake and her cargo to the owners.

The affair being thus brought to a conclusion, I am happy to take the opportunity of conveying to you an entire approval of your proceedings throughout this difficult case. Your conduct is considered by her Majesty's government to have been altogether becoming and proper, and to have adequately vindicated the honor and dignity of her Majesty's crown, without neglecting anything which was due to the government of the United States.

I have, &c.,

NEWCASTLE.

[From British Blue Book, "North America," No. 9, 1864, p. 94.]

No. 28.

The Duke of Newcastle to Lieutenant Governor Gordon.

DOWNING STREET, March 12, 1864.

SIR: I have the honor to inform you that by papers which have reached me from Major General Doyle it appears that the judge of the vice-admiralty court at Halifax has decreed the restoration of the Chesapeake and her cargo to the owners.

I am happy to take this opportunity of acquainting you that the whole of the proceedings which you had occasion to adopt in connection with this difficult case have met with the entire approval of her Majesty's government.

I have, &c.,

NEWCASTLE.

Mr. Seward to Lord Lyons.

DEPARTMENT OF STATE,
Washington, March 21, 1864.

MY LORD: This department has information to the effect that some of the parties who were concerned in the piratical capture of the steamer *Chesapeake*, belonging to the mercantile marine of this country, who took refuge in the province of New Brunswick or Nova Scotia, and whose extradition was requested in my note to you of the 20th of December last, were ordered by the magistrate before whom they were brought to be delivered up, pursuant to the requisition. The prisoners, however, applied to a judge for a *habeas corpus*, which was granted, and they were released by his order, for reasons set forth in an opinion, a copy of which has been received. The reasons referred to seem to be so erroneous and inconclusive, and so much at variance with the intentions of the parties to the treaty of Washington, that it is to be hoped the proceeding adverted to may not be final in regard to the persons to whom it relates. Awaiting, however, the result of any further proceedings which may take place upon the subject, it will be reserved with reference to a further communication to you.

I have the honor to be, with high consideration, my lord, your obedient servant,
WILLIAM H. SEWARD.

Right Hon. LORD LYONS, &c., &c., &c.

Mr. Seward to Mr. Burnley.

DEPARTMENT OF STATE,
Washington, January 23, 1865.

SIR: Referring to my note to Lord Lyons of the 20th of December, 1863, requesting through his lordship that, in virtue of the provisions of the treaty stipulations on the subject, her Majesty's government would issue the necessary warrant for the delivery of John C. Braine, H. A. Parr, John Parker Locke, David Collins, George Robinson, John Wade, and others, charged with the commission of piracy and murder in the American steamer *Chesapeake*, I have now the honor to state that information has been received at this department from the consul of the United States at St. John's to the effect that, upon the discharge of the parties arraigned under the charge of piracy committed on board of the before-named *Chesapeake*, new warrants were issued by Justice Parker for the apprehension of all the offenders known to have been concerned in the transaction; that these warrants were not, and, perhaps, could not have been, served at the time, by reason of the escape of the criminals to parts unknown.

It having recently come to the consul's knowledge that four or five of these fugitives had returned within the jurisdiction of New Brunswick, he has notified the high sheriff, in whose hands these warrants now are, of the fact.

It is hoped that every facility may be afforded by the provisional authorities for their apprehension and commitment; and I now have the honor to request, through you, sir, that upon the apprehension and commitment of the said fugitives, or any of them, within the province of New Brunswick, or elsewhere within the jurisdiction of her Britannic Majesty, her Majesty's proper authorities will be pleased to issue the necessary warrant for the delivery of the said fugitives to any person duly authorized by the government of the United States to receive them, in order that they may be brought back to the United States for trial.

I have the honor to be, with high consideration, sir, your obedient servant,
WILLIAM H. SEWARD.

J. HUME BURNLEY, Esq., &c., &c., &c.

Mr. Burnley to Mr. Seward.

WASHINGTON, *January 25, 1865.*

SIR: I have the honor to acknowledge receipt of your note of the 23d instant, and inform you that a copy of it shall be communicated to the proper authorities.

I have the honor to be, with the highest consideration, sir, your most obedient, humble servant,

J. HUME BURNLEY.

Hon. WILLIAM H. SEWARD, &c., &c., &c.

Mr. Burnley to Mr. Seward.

WASHINGTON, February 15, 1865.

SIR: With reference to your note of the 23d ultimo, relative to the extradition of Braine and others, charged with the commission of piracy and murder on the American steamer Chesapeake, I beg leave to inclose a copy of dispatch and inclosures which I have received on this subject from the lieutenant governor of New Brunswick, to whom the requisition for the extradition of the offenders was addressed, stating that no efforts will be spared on his excellency's part to secure their immediate arrest.

I have the honor to be, with the highest consideration, sir, your most obedient, humble servant,

J. HUME BURNLEY.

HON. WILLIAM H. SEWARD, &c., &c., &c.

Mr. Gordon to Mr. Burnley.

FREDERICTON, N. B., February 7, 1865.

SIR: I have had the honor to receive your dispatch of the 27th ultimo.

I request that you will have the goodness to thank Mr. Seward, in my behalf, for the communication of the information which has reached him as to the presence in this province of some of the parties implicated in the seizure of the steamer Chesapeake, and that you will inform him that no efforts will be spared on my part to secure their immediate arrest.

I have no doubt that the high sheriff of St. John has already, on the receipt of the information given him by the consul of the United States, taken steps to insure their capture; but in order that there may be no room on his part for any misapprehension of his duty, I have caused the letter of which I inclose a copy to be addressed to him. I have also directed a circular, of which a copy is likewise inclosed, to be issued to the sheriffs of the different counties.

I am not surprised that the amount and importance of the business in which Mr. Seward is engaged should have caused him to evince some forgetfulness of the details connected with a case which has now for many months ceased to occupy public attention; but, although the facts are for the most part recorded in my various communications addressed at the time to her Majesty's minister at Washington, it may be convenient that I should put you, at all events, in full possession of them by a brief recapitulation. You will then perceive that the warrant issued by Judge Parker, referred to by Mr. Seward, does not in any way relate to the extradition of the parties, and was not issued under the authority of my warrant of the 24th of December, 1863, or in consequence of the requisition of the United States government for the surrender of the parties.

Previously to the discharge of the prisoners by Mr. Justice Ritchie, I had carefully considered the course which, in such an event, it would be advisable for me to pursue. It appeared to me that if it were decided by the judge that the accused parties would, if guilty of the crimes imputed to them, be amenable to the courts of this province, and not to those of the United States, the government of that country might justly expect that they should be brought to trial in this province upon the charges preferred against them. Accordingly, on Monday morning, March 7, three days before the delivery of Judge Ritchie's judgment, I sent for the attorney general, and directed him to cause information to be laid and warrants prepared which would insure the rearrest of the parties, should they be released by the judge's orders. I directed the preparation of two separate warrants, of which one or other was to be used, according to the nature of the reasons assigned by the judge for the discharge of the prisoners. Should they be set free on the plea that their commissions in the confederate service rendered the acts committed by them justifiable as the acts of belligerents, I directed that such of them as were British subjects should be arrested for a breach of the foreign enlistment act. Should they be discharged because, in the judge's opinion, their extradition could not properly be demanded by the government of the United States, I directed that the charge of piracy and murder preferred against them should be brought before the admiralty court of this province. The attorney general perfectly understood these instructions, as also their object, which was that matters might be in such a state of preparation that, in the event of the discharge of the prisoners, a very few minutes might suffice for the accomplishment of the form necessary to assure their rearrest. On the following day I desired the provincial secretary to ascertain whether my orders had been carried out. He informed me that the necessary instructions had been forwarded to St. John. I therefore assumed, not, I think, without reason, that I had done all that could be reasonably looked for by the government of the United States, and given

ample proof that no desire existed on the part of this government to shelter from justice the parties implicated in this transaction.

Circumstances, which I need not now detail, unfortunately prevented the due execution of these orders; and it was not until the 16th of March that Mr. Justice Parker issued the warrant, of which I now inclose a copy, and which you will perceive is not issued under the provisions of the act 6 and 7 Vict., cap. 76, but by the Judge, as a member of the high court of admiralty, with a view to their being brought before which court for trial it directs the apprehension of the parties. Immediately before my leaving this province for England in the month of April, information reached me that some of the parties were still in the neighborhood of St. John, and I directed the high sheriff to make every effort for their capture. I did not return to New Brunswick till August, and I have not since that time received any further intelligence on the subject.

I have, &c., &c.,

ARTHUR H. GORDON.

J. HUME BURNLEY, Esq., &c., &c., &c.

Mr. Tilley to the high sheriff.

PROVINCIAL SECRETARY'S OFFICE,
Fredericton, N. B., February 7, 1865.

SIR: I am directed by his excellency the lieutenant governor to inform you that his excellency has received intimation from her Majesty's legation at Washington, that the consul for the United States of America at St. John has intimated to you that some of the persons implicated in the seizure of the Chesapeake are now in St. John.

I am directed by his excellency to instruct you, should this be the case, to spare no pains to secure execution of the warrant of Mr. Justice Parker, of the 1st of March, 1864, now in your hands, by the immediate apprehension of the parties referred to, and you will take, with secrecy and dispatch, all the measures necessary to effect this object.

In the event of the capture of any of the parties, you will report the fact at once to his excellency by telegraph.

I have, &c.,

S. L. TILLEY.

The HIGH SHERIFF, *St. John.*

[Copy of circular to the sheriffs of counties.]

PROVINCIAL SECRETARY'S OFFICE,
Fredericton, February 7, 1865.

SIR: On the 18th of March, 1864, a warrant for the apprehension of certain parties named therein, on a charge of piracy and murder, and signed by the Hon. Justice Parker, as a member of the high court of admiralty, was forwarded to you by the attorney general.

Credible information has reached his excellency that some of the parties named in that warrant are now within the province, and I am directed by his excellency to call your attention to its proper execution within your jurisdiction should you have reason to believe that any of the individuals referred to are in the county of ———.

Should this be the case, I am directed to instruct you to take, with dispatch and secrecy, immediate measures to secure their arrest, and, in the event of their capture, to report at once (by telegraph) to his excellency.

I have, &c., &c.,

S. L. TILLEY.

The HIGH SHERIFF of ———, &c., &c., &c.

[Copy of warrant.]

To James A. Harding, esquire, sheriff of the city and county of St. John, the deputy sheriff of the city and county, and to all constables and others, her Majesty's officers of the peace, for the said city and county of St. John, whom these may concern:

PROVINCE OF NEW BRUNSWICK, Admiralty ———, to wit:

These are, in her Majesty's name, to command you and every of you, upon sight hereof, to take and bring before me, the Hon. Robert Parker, one of her Majesty's justices of

the supreme court of New Brunswick and one of the commissioners named in the communication issued under the great seal of the United Kingdom of Great Britain and Ireland, pursuant to the statutes and acts of the imperial Parliament in such case made and provided, or some other of the commissioners named in the said communication, the bodies of John C. Braine, David Collins, James McKinney, Linus Seely, George Wade, W. C. Brooks, Isaac Tredwell, Henry Parr, George Robinson, Gilbert Cox, Robert Cox, Robert Moore, George Moore, Henry Osborne, and Vernon G. Locke, (*alias* John Parker,) of whom you shall have notice, to answer all such matters and things as on her Majesty's behalf are, on oath, objected against them by Charles Johnson, on suspicion of having been guilty of the forcible, piratical, and felonious seizing upon the high seas, within the jurisdiction of the admiralty of England and of the court appointed by the commissioners aforesaid, and then and there stealing, taking, and running away with, with force and arms, from the care, custody, and possession of Isaac Willetts, then being the master and commander, and by himself and his mariners in lawful possession of the same, the steamer or vessel called the Chesapeake; and on board the said steamer or vessel on the high seas, within the jurisdiction aforesaid, to wit, about twenty miles east-northeast from Cape Cod, in the State of Massachusetts, one of the United States of America, unlawfully, feloniously, and maliciously and cruelly did make an assault on one Orin Schaffer, second engineer of the said steamer or vessel, and him, the said Orin Schaffer, feloniously, willfully, piratically, and of malice aforethought, killing and murdering, against the peace of our lady the Queen, her crown and dignity, and to be examined touching and concerning the said charge, and to be further dealt with according to law. Hereof fail not at your peril.

Given under my hand and seal this 16th March, 1864.

R. PARKER,
Judge of Supreme Court, Commissioner.

Mr. Burnley to Mr. Seward.

BRITISH LEGATION, February 17, 1865.

MY DEAR SIR: The lieutenant governor of New Brunswick telegraphs this morning that "Linus Seely, one of the Chesapeake captors, has been arrested at St. John."

Very faithfully yours,

J. HUME BURNLEY.

HON. WILLIAM H. SEWARD, *fcc., fcc., fcc.*

Mr. Seward to Mr. Burnley.

DEPARTMENT OF STATE,
Washington, February 18, 1865.

SIR: I have the honor to acknowledge the receipt of your note of the 15th instant, which is accompanied by a copy of a dispatch and inclosures, received by you from the lieutenant governor of New Brunswick, relative to the extradition of Braine and others, charged with the commission of piracy and murder on the United States steamer Chesapeake. I beg you to convey to the lieutenant governor the thanks of this government for the zeal manifested by him in adopting prompt measures for the arrest of the above mentioned criminal.

I have the honor to be, with high consideration, sir, your obedient servant,

WILLIAM H. SEWARD.

J. HUME BURNLEY, Esq., *fcc., fcc., fcc.*

Mr. Burnley to Mr. Seward.

WASHINGTON, February 20, 1865.

MY DEAR SIR: Agreeably to your wish, I have telegraphed to the lieutenant governor of New Brunswick relative to the detention of Linus Seely, of the Chesapeake, but I would suggest that the machinery of the law on this side should be put in motion as soon as possible, in order to meet the requirements of the law on the other side, as you will have perceived by the correspondence communicated to you on the subject of the St. Albans raiders, and this same Chesapeake, that what is law in Canada is not law in New Brunswick, and that our lieutenant governors are powerless to do more than what such law prescribes.

Believe me, my dear sir, yours, very faithfully,

J. HUME BURNLEY.

HON. WILLIAM H. SEWARD, *fcc., fcc., fcc.*

Mr. Seward to Mr. Burnley.

DEPARTMENT OF STATE,
Washington, February 23, 1865.

MY DEAR SIR: I have the pleasure of acknowledging the receipt of your letter of the 20th instant, informing me that you have telegraphed to the lieutenant governor of New Brunswick concerning the detention of Linus Seely, in accordance with my wish, and to express my satisfaction with your proceeding.

With reference to your suggestion relative to the propriety of taking measures to meet the requirements of the provincial law, I have to inform you that the business is already being vigorously prosecuted.

Believe me to be, my dear sir, very faithfully yours,

WILLIAM H. SEWARD.

J. HUME BURNLEY, Esq., &c., &c., &c.

Mr. Burnley to Mr. Seward.

WASHINGTON, February 25, 1865.

SIR: With reference to previous correspondence with the lieutenant governor of New Brunswick on the subject of the Chesapeake, I have the honor to inclose copy of a dispatch of the 18th instant, which I have received from Mr. Gordon, transmitting copy of a report made to his excellency by the high sheriff of St. John, as to the steps taken by him to secure the apprehension of the captors of this vessel.

I have the honor to be, with the highest consideration, sir, your most obedient, humble servant,

J. HUME BURNLEY.

Hon. WILLIAM H. SEWARD, &c., &c., &c.

Mr. Gordon to Mr. Burnley.

FREDERICTON, February 18, 1865.

SIR: I have the honor to transmit for your information a copy of a report made to me by the high sheriff of St. John, as to the steps taken by him to secure the apprehension of the captors of the Chesapeake.

I have also the honor to inform you that since the date of the report Linus Seely, one of the parties implicated, has been arrested at St. John, and is now awaiting examination before one of the members of the high court of admiralty.

I have, &c., &c.,

A. H. GORDON.

J. H. BURNLEY, Esq., &c., &c., &c.

High sheriff of St. John to provincial secretary.

SHERIFF'S OFFICE,
St. John, February 8, 1865.

SIR: In reply to yours of the 7th instant, you will be kind enough to submit to his excellency the lieutenant governor the following, all the information I have in reference to the persons implicated in the seizure of the Chesapeake:

That when first the warrant of Mr. Justice Parker, of date March 16, 1864, was put into my hands, I called upon the chief of police of the city, requesting him to direct his men to arrest any of the parties whose names were in the warrant, which he said he would do; that on Sunday afternoon, in December last past, the American consul in St. John called upon me, stating that George Wade, one of the parties, had arrived in the steamer running between Boston and this city some ten days previous. I immediately called on the chief of police, informing him of the fact communicated by the consul, and requesting the assistance of his force, which he acceded to, and directed the house of his, Wade's, wife to be watched; and I personally went to Loch Lomond, in this county, where his father resides, and caused a watch to be put on it and the neighborhood.

Shortly after I heard of his being in the cars on his way to Halifax, Nova Scotia, to ship as a sailor there. The two Coxes were reported at the same time to be making shingles in the woods near the road leading to St. Andrew's, for the arrest of whom I

engaged the most likely persons I knew of, but without success, and could not gain even certain information of their being there, as they are difficult of identification, being but little known here; and I beg to assure his excellency that no pains shall be spared to arrest the parties should they be within this county.

I have, &c., &c.,

Honorable S. L. TILLEY.

J. A. HARDING.

Mr. Seward to Mr. Burnley.

DEPARTMENT OF STATE,
Washington, March 3, 1865.

SIR: I have the honor to acknowledge the receipt of your communication of the 25th ultimo, in regard to the arrest of Seely, one of the captors of the Chesapeake, and the steps taken by the authorities of New Brunswick to secure the arrest of others of the party. In reply, I have the honor to inform you that the diligence and friendly action of those authorities are highly appreciated.

I have the honor to be, with the highest consideration, sir, your obedient servant,
WILLIAM H. SEWARD.

J. HUME BURNLEY, Esq., &c., &c., &c.

Mr. Seward to Mr. Burnley.

DEPARTMENT OF STATE,
Washington, March 6, 1865.

SIR: Credible information having been received at this department that Vernon G. Locke, charged with the commission of the crimes of piracy and murder on board of the United States merchant steamer Chesapeake, is now a fugitive from the justice of the United States at Nassau, where he is at present held under arrest, I have the honor to request, through you, sir, that, conformably with the provisions of the tenth article of Washington, her Britannic Majesty's government will be pleased to issue the necessary warrant for the delivery of the aforementioned Vernon G. Locke to any person or persons duly authorized to receive him, in order that he may be brought back to the United States for trial.

I have the honor to be, with the highest consideration, sir, your obedient servant,
WILLIAM H. SEWARD.

J. HUME BURNLEY, Esq., &c., &c., &c.

Mr. Seward to Mr. Burnley.

DEPARTMENT OF STATE,
Washington, March 7, 1865.

SIR: With reference to the case of Linus Seely, now under arrest at St. John's, New Brunswick, I have the honor to inform you that, in view of the proceedings heretofore adopted in regard to similar cases, it is considered proper that I should inform you that this government expects either a surrender of the fugitive or a fair trial in New Brunswick if the surrender is declined.

I have the honor to be, with the highest consideration, sir, your obedient servant,
WILLIAM H. SEWARD.

J. HUME BURNLEY, Esq., &c., &c., &c.

Mr. Burnley to Mr. Seward.

WASHINGTON, March 9, 1865.

MY DEAR SIR: In response to your official note of the 7th instant, and referring to Mr. Gordon's dispatches of the 7th and 18th ultimo, communicated to you on the 15th and 25th ultimo, about Linus Seely, of the Chesapeake, you may depend upon it that the lieutenant governor of New Brunswick will do what he properly can, in conformity with the laws of the province, either to surrender the criminal or to bring him to trial in the province. Everything, however, must depend upon the nature of the evidence to be produced against him, and, as in your private letter of the 23d ultimo you inform

me that measures were being taken to meet the requirements of the provincial law, I presume that the United States consul at St. John's has already received his instructions accordingly.

It may, however, be well to observe here that this same man was, with the other captors of the *Chesapeake*, examined before the police magistrate last year and committed for extradition; but that committal was overruled by a judge of the supreme court on the ground (among others) that the offense was cognizable by the courts of New Brunswick, and this ruling has since received the sanction of the English judges, who, in a precisely similar case of the Joseph L. Gerrity, pronounced this summer a similar judgment.

I am, therefore, inclined to think that if Seely is committed by Judge Parker, it will not be for extradition, but for trial in the province of New Brunswick.

Believe me to remain, my dear sir, yours, very faithfully,

J. HUME BURNLEY.

HON. WILLIAM H. SEWARD, *&c., &c., &c.*

Mr. Seward to Mr. Burnley.

DEPARTMENT OF STATE,
Washington, March 13, 1865.

SIR: I have the honor to acknowledge the receipt of your note of the 9th instant, which relates to the proceedings in the case of Linus Seely, one of the pirates of the *Chesapeake*. I accept with pleasure the assurance you give me that this offender will be dealt with according to law.

I am aware of the two important facts mentioned in your note, namely, that Seely was once before arrested in New Brunswick, and was released by a provincial judge, and that a similar discharge of the pirates of the *J. L. Gerrity* was affirmed by the court of Queen's Bench in England. It must not, however, be understood that this government assents to the constructions of the extradition compact which the colonial judges and the judges of the realm thus adopted; that question must abide the test of further examination. In the mean time I have to remark, that in the case of Seely, as well as that of the pirate of the *J. L. Gerrity*, extradition was denied because the culprits were amenable to the municipal laws of New Brunswick and of Great Britain, respectively; and yet the first and only points of the decision in each case were that the culprits should be set free from all duress, or rearrest, or prosecution, to renew their crimes upon the ocean. We protested against that course of proceeding in each of the cases as an absolute denial of international justice most unfriendly to the United States. It is, moreover, a sincere satisfaction to have your assurance that the precedents thus set will not be followed by the authorities of New Brunswick on the present occasion.

I have the honor to be, with high consideration, sir, your obedient servant,

WILLIAM H. SEWARD.

J. HUME BURNLEY, Esq., *&c., &c., &c.*

Mr. Burnley to Mr. Hunter.

WASHINGTON, April 18, 1865.

SIR: With reference to Mr. Seward's note of the 6th ultimo, asking for the extradition of Vernon G. Locke, I have the honor to inclose copy of a dispatch which I have received from his excellency the governor of the Bahamas in reply to my dispatch communicating to him copy of the above-mentioned note.

I have the honor to be, with high consideration, sir, your most obedient, humble servant,

J. HUME BURNLEY.

HON. WILLIAM HUNTER, *&c., &c., &c.*

Governor Rawson to Mr. Burnley.

GOVERNMENT HOUSE,
Nassau, April 3, 1865.

SIR: I have the honor to acknowledge your dispatch of the 9th ultimo, transmitting a copy of a note from the Secretary of State for the United States, requesting the extradition of Vernon (or Verdon) G. Locke, charged with the commission of the crimes of

piracy and murder on board the United States merchant steamer *Chesapeake*, and a fugitive from the justice of the United States.

This man is now under arrest at Nassau and will be brought to trial at the ensuing sitting of the general court, for the fraudulent sale of the captured United States schooner *Hanover*, being an offense committed in her Majesty's dominions against British law.

Under such circumstances it appears to me that I should not be justified in delivering him over to the authorities of the United States, to be tried by them for another offense, until he shall either have been acquitted of the first offense, or, if condemned on the trial for it, shall have undergone and completed his sentence.

As, however, his trial will take place so soon, the question of his acquittal or condemnation will not long be at issue. If he should be acquitted, I shall be prepared to act upon a requisition presented to me conformably with the provisions of the 10th article of the treaty of Washington, to which Mr. Seward refers. If he should be condemned, he will remain in confinement here, and I will refer the question of extradition to the secretary of state for the instructions of her Majesty's government.

I request, however, that you will lose no time in pointing out to Mr. Seward that his note does not contain, and that this government does not possess, any evidence or information upon which I can legally comply with his present requisition. The 10th article of the treaty of Washington stipulates that extradition is to be made "upon such evidence of criminality as, according to the laws of the place where the fugitive or person so charged shall be found, would justify his apprehension and commitment for trial, if the crime or offense had there been committed;" that the primary arrest must be made "upon complaint made under oath;" that the person charged is to be brought before a competent court, "to the end that the evidence of criminality may be heard and considered;" and that I have only the power of surrendering the fugitive if, on such hearing, "the evidence be deemed sufficient to sustain the charge," in the judgment "of the examining judge or magistrate."

It will be necessary, therefore, for the government of the United States to supply such evidence of the nature and circumstances of the alleged crimes, of the identity of Locke, and of his participation in the commission of the said crimes, as will satisfy the usual requirements of the colonial laws.

I would also direct the attention of Mr. Secretary Seward to the provisions of the imperial act 6 and 7 Vic., c. 76, passed for the purpose of giving effect to the treaty of Washington, and among them to the necessity of proving that the crime was committed within the jurisdiction of the United States—a fact which I am advised should appear upon the face of the requisition.

I have, &c.,

RAWSON W. RAWSON,
Governor.

J. HUME BURNLEY, Esq., *fec.*, *fec.*, *fec.*

Mr. Hunter to Sir F. Bruce.

DEPARTMENT OF STATE,
Washington, April 24, 1865.

SIR: I have the honor to acknowledge the receipt of Mr. Burnley's note of the 18th instant, which is accompanied by a copy of a dispatch of the 3d instant, from his excellency Rawson Rawson, the governor of the Bahamas, in which he points out certain requirements for the fulfillment of the extradition of Vernon G. Locke *alias* John Parker, or John Parker Locke. Waiving a consideration of the question whether the delivery of Locke could be claimed pending his trial for a violation of British law or his fulfillment of a sentence, I have the honor to inform you that I have forwarded to T. Kirkpatrick, esq., the consul of the United States at Nassau, a duly authenticated copy of such complaints, warrants, and depositions as, it is believed, will fill the requirements of the treaty and the act of the imperial parliament in force in the Bahamas.

I have the honor to be, with the highest consideration, sir, your obedient servant,
W. HUNTER,
Acting Secretary.

HON. SIR FREDERICK W. A. BRUCE, *fec.*, *fec.*, *fec.*

Mr. Hunter to Sir F. Bruce.

DEPARTMENT OF STATE,
Washington, April 25, 1865.

SIR: I have the honor to request that you will have the kindness to cause the seal and certificate of this department attached to the inclosed papers relating to the case

of Vernon G. Locke *alias* John Parker, or John Parker Locke, to be authenticated under the seal of the British legation, in order that the papers may receive due consideration by the judicial authorities at the Bahamas with reference to the proposed extradition of Locke.

I will thank you to return the papers to me with the proper certificate, and to inform the governor of the Bahamas that they will be forwarded by this department to the United States consul at Nassau.

I have the honor to be, with the highest consideration, sir, your obedient servant,
W. HUNTER,
Acting Secretary.

Hon. SIR FREDERICK W. A. BRUCE, &c., &c., &c.

Mr. Adams to Mr. Hunter.

No. 967.]

LEGATION OF THE UNITED STATES,
London, May 25, 1865.

SIR: I have the honor to transmit a copy of a note from Lord Russell to me, dated the 19th instant, and referring to a demand made by the United States on the governor of the Bahamas, for the extradition of one Vernon Locke. As this transaction did not pass through this legation, I presume this note is sent to it only as a medium of communicating information.

I have the honor to be, sir, your obedient servant,
CHARLES FRANCIS ADAMS.

Hon. WILLIAM HUNTER,
Acting Secretary of State.

Earl Russell to Mr. Adams.

FOREIGN OFFICE, *May 19, 1865.*

SIR: I have the honor to bring to your knowledge proceedings which have been taken by the colonial authorities at Nassau, in regard to a person named Vernon Locke, an application for whose extradition has been made by the government of the United States through her Majesty's representative at Washington.

In the early part of the year 1863 a schooner named the Retribution, belonging to the navy of the so-called Confederate States, captured an American vessel, the Hanover, of Boston, and Vernon Locke, the commander of the Retribution, succeeded, by means of fraudulent personation and representation, in procuring the admission of the Hanover to the port of Long Cay, in the Bahamas, and effected there the sale of that vessel's cargo.

A representation on the subject having been made to Lord Lyons by Mr. Seward, his lordship immediately communicated with the governor of the Bahamas, and after an investigation of the case Locke was arrested and taken before the acting police magistrate, by whom he was fully committed for trial on charges of conspiracy and forgery. The offense, however, with which Locke was charged was bailable, and having been admitted to bail, he did not surrender. His recognizances were therefore forfeited, but no further steps could at the time be taken.

In February last Locke returned to Nassau and was rearrested, the colonial authorities having taken immediate steps to bring him to trial for the above-mentioned offenses. But in the meanwhile Mr. Seward received information that Locke had returned to Nassau, and made a requisition through Mr. Burnley for his extradition on charges of murder and piracy, arising out of the case of the Chesapeake, and the governor of the Bahamas thereupon applied to her Majesty's government for instructions as to the course which he should pursue, with regard to the two-fold charges thus brought against Locke.

I have the honor to inform you of the decision which, after attentive consideration of all the circumstances of the case, her Majesty's government have come to in regard to this matter. It appears to her Majesty's government that the United States government are not entitled to obtain the extradition of Locke, until he shall have been tried for the offenses alleged to have been committed by him against British law, and, if convicted, shall have undergone any sentence which may be passed upon him. But her Majesty's government are unwilling that, in consequence of any delay on this account in the extradition of Vernon Locke, the means of supporting the graver charge against him should be weakened, and I have, therefore, to state to you that her Majesty's government will waive their right to prosecute Locke for the offense of conspiracy and

forgery, if the evidence upon the charge arising out of the seizure of the Chesapeake shall prove to be sufficient to justify extradition by the government of the Bahamas.

I request that you will have the goodness to inform your government of the manner in which her Majesty's government propose to proceed in regard to the application for Vernon Locke's extradition.

I have the honor, &c., &c.,

RUSSELL.

CHARLES FRANCIS ADAMS, Esq., &c., &c., &c.

Mr. Seward to Mr. Adams.

No. 1481.]

DEPARTMENT OF STATE,
Washington, July 20, 1865.

SIR: It appears from a dispatch of the 5th instant, from the vice-consul of the United States at Kingston, Jamaica, that Lieutenant John C. Braine, of Chesapeake and Roanoke notoriety, had arrived in that city. He came off the port of Kingston in the schooner *St. Mary's*, which he and his party had seized at the mouth of the Patuxent River, in Chesapeake Bay, on the 1st of April last. Mr. John A. Camp, the vice-consul, states that he endeavored to procure the extradition of Braine, but met with no success; Braine leaving there on the 21st ultimo, on steamship *St. Thomas*, for Liverpool. Mr. Camp informs me that he notified the United States consul at Liverpool, by the same steamer, of Braine's departure for that port, and gave him other information that would lead to the identification of Braine in that city. The schooner *St. Mary's* was finally carried into the port of Anotta Bay, on the north side of Jamaica, where she remains at last accounts. Mr. Camp states that he is in correspondence with the governor of the colony, with a view to having the vessel returned to its owner.

I have given you this information in order that you may make a representation of the case to the British government, and at the same time demand the restoration of the vessel to its owners. The most convenient way for effecting this would probably be for the British colonial authorities to place the *St. Mary's* at the disposal of the United States vice-consul at Kingston. You will therefore suggest the adoption of that course.

I am, sir, your obedient servant,

WILLIAM H. SEWARD.

CHARLES FRANCIS ADAMS, Esq., &c., &c., &c.

Mr. Adams to Mr. Seward.

No. 1039.]

LEGATION OF THE UNITED STATES,
London, September 7, 1865.

SIR: In connection with your dispatch No. 1481, of the 20th of July, directing me to make a demand for the restoration of the *St. Mary's* to her owners, I have the honor to transmit copies of my note to Lord Russell, of the 10th of August, and of his reply on the 16th of the same month.

I have the honor to be, sir, your obedient servant,

CHARLES FRANCIS ADAMS.

Hon. WILLIAM H. SEWARD,
Secretary of State.

Mr. Adams to Earl Russell.

LEGATION OF THE UNITED STATES,
London, August 10, 1865.

MY LORD: From information received officially by my government, there is reason to believe that the person named John C. Braine—heretofore doubtless known to your lordship in connection with certain outrages on the steamers *Chesapeake* and *Roanoke*, from the consequences of which he took refuge in her Majesty's colonial possessions—had once more made his appearance off the port of Kingston, in the island of Jamaica, some time in the month of June last, in a schooner named the *St. Mary's*, and belonging to certain parties in the United States, which had been seized by him and his coadjutors on the 1st of April previous, at the mouth of the Patuxent River, on the Chesapeake Bay. It further appears that this vessel was ultimately carried into the port of Anotta Bay,

on the north side of the island, where she now remains abandoned by these parties. Braine is stated to have escaped to some point on this side of the Atlantic.

Moreover, it is stated that a claim for the restoration of this vessel has been made by the vice-consul of the United States upon the governor of the island, for the benefit of the true owners, who are citizens of the United States.

I have the honor to inform your lordship that I am instructed to solicit an investigation of these allegations so far as they relate to the attempt further to abuse the neutrality of her Majesty's territory, after all pretense of an insurgent authority had disappeared in America. And should the facts prove to be as stated, I am directed, respectfully, to demand that the vessel be restored to its owners, as well as to suggest to your lordship the expediency of giving the necessary powers to the colonial authorities of that island to place her at the disposal of the vice-consul of the United States at Kingston, with a view to that end.

I pray your lordship to accept the assurances of the highest consideration with which I have the honor to be, my lord, your lordship's most obedient servant,

CHARLES FRANCIS ADAMS.

Right Hon. EARL RUSSELL, &c.

Earl Russell to Mr. Adams.

FOREIGN OFFICE, August 16, 1865.

SIR: I have the honor to acknowledge the receipt of your letter of the 10th instant, relative to a schooner named the *St. Mary's*, which has been taken to Anotta Bay, in the island of Jamaica, and is claimed by the United States government on behalf of the owners, and I have to inform you that the case of this vessel has been referred to the law officers of the Crown.

I have the honor to be, sir, your most obedient, humble servant,

RUSSELL.

CHARLES FRANCIS ADAMS, Esq., &c., &c., &c.

CASE OF THE JOSEPH L. GARATY.

Mr. Leas to Mr. F. W. Seward.

No. 100.]

UNITED STATES COMMERCIAL AGENCY,
Belize, December 17, 1863.

SIR: In my dispatch No. 97, of December the 11th, I reported to you the arrival in this port of the so-called confederate schooner *Eureka*, with the confederate flag flying at her main. That I had objected before the authorities against allowing her to come to an entry, as a confederate vessel, and also against the commander flying his flag at the mainmast; and further, that the authorities compelled the vessel to be entered as an American vessel, and from that period the confederate flag disappeared from view.

I have now to communicate some further particulars in regard to the same schooner *Eureka*, of a much more serious character, and which are these: On the afternoon of December 15, day before yesterday, about 4 o'clock, a Mr. William Benney and Antonio Mathi, two of the most respectable and honorable merchants in this place, the latter of whom purchased the one hundred and twenty-two bales of cotton brought by the schooner *Eureka*, and which has been shipped to England, called at this agency and made known the following facts: namely, that he, William Benney, had just returned from a visit to the coast of Yucatan; that while there, a gentleman had visited his vessel for the express purpose of informing him that an American schooner, called the *Jos. L. Garaty*, Captain James Nicholas, of the burden of one hundred and six tons, had cleared from Matamoras for Havana, with a cargo of one hundred and twenty-two bales of cotton and six passengers; that while at sea, near Cape Catouche, the passengers declared themselves confederates, took possession of the vessel and cargo, hoisted the confederate flag, and sent Captain Nicholas and his crew ashore in the small boat belonging to the schooner; that Captain Nicholas was then at Mireda entering his protests, and that it was presumed the parties would take the schooner to Belize; that upon inquiry, after his arrival in Belize, he discovered that the schooner *Eureka* is of the burden of one hundred and six tons, brought here one hundred and twenty-two bales of cotton, and arrived without a small boat, which the captain declared, upon interrogation, he had lost at sea; that, from all the surroundings, he verily believed that the schooner *Eureka* is the American schooner *Jos. L. Garaty*, and that the captain, J. F. Brown, the alleged owner of the cargo, Thomas Hogg, and the four sailors, are the six passengers that embarked at Matamoras on board the said American schooner *Jos.*

L. Garaty; and in this latter opinion Mr. Mathi also joins, induced to do so from collateral circumstances surrounding the conduct of Captain J. F. Brown, and the pretended owner of the cotton. In their negotiations with him, Mr. Benney further states that "he believed Captain James Nicholas would be here in a few days, in pursuit of the parties that had forcibly taken from him his vessel upon the high seas."

Neither Mr. Benney nor Mr. Mathi manifested a willingness to lodge information against the suspected parties under oath; and, indeed, desired that I should consider their divulgings as made *sub rosa*. But I at once gave them to understand that "I could not consent so to receive and regard their disclosures; that the statement, if true, constituted the act piracy, the punishment of which is death; and that without using them as authority I would be utterly powerless, and could lodge no complaint before the authorities; and further, that even at best, in the absence of Captain Nicholas, or other confessions on the part of some of the parties implicated, their evidence, which was only hearsay, might be thrown out of court. But, nevertheless, as the case was one of the gravest importance, and the circumstances, as far as they had developed themselves, seem to point to the parties now on board the Eureka as the perpetrators of the outrage; and further, as it is alleged, they intend clearing and putting to sea in the morning, I would at once, without a moment's delay, confer with the authorities, and endeavor to cause their arrest and the detention of the vessel." Consequently, I hurriedly wrote a note to Mr. Berkely, the acting lieutenant governor, which I conveyed, in person, to his dwelling, and after stating the case, as it had been presented to me, placed in his hands my communication, a copy of which I have the honor herewith to inclose, marked No. 1. Mr. Berkely expressed the opinion that "the authorities here had no law or jurisdiction over the matter." I replied that "the statements, if true, constituted a case of piracy, and was abundantly provided for in the treaty of August the 9th, 1842, commonly known as the extradition treaty; that, though professed confederates, yet the authorities could only regard them as citizens of the United States, and as such, I should claim their rendition under the above-cited treaty, in case of their arrest." The governor, in reply, declared his great desire to render me all the assistance in his power in the exercise of my functions; and hence, would at once refer my communication to the attorney general for a decision.

After departing from the house of the governor, I repaired to that of the collector, Mr. Shaw, to ascertain the truth of the statement that the captain of the Eureka intended to clear in the morning. Mr. Shaw informed me that Captain J. F. Brown, of the schooner Eureka, had been to his office that day desiring to clear, but in consequence of his not having the necessary number of seamen—the four that came with him in that capacity having left the vessel after her arrival in Belize—he was unable to clear; but it was arranged that he should call early in the morning, and his clearance papers would be furnished him. After this interview with the collector I called upon the attorney general, who had just received my note from the governor, and I urged upon him the great necessity of furnishing Mr. Berkely with his reply at as early a moment as possible, which he most kindly promised to do. I then called upon Mr. Benney and Mr. Mathi, to gather, if possible, additional facts, and at 9 o'clock in the evening transmitted a second note to the governor, a copy of which you have in inclosure No. 2. I also dispatched some parties, privately, to endeavor to find some of the persons who had arrived in the Eureka as sailors, and who had been represented as having left the vessel; but in this I failed, as information was brought to me that they had all left the colony in other vessels—two having departed the same day in the Hamburg brig Carlos, which sailed for Liverpool. So the matter rested for that night. Early on the following (yesterday) morning Mr. Mathi called and informed me that, during the night, Captain Brown and the alleged owner of the cotton had stolen a small boat from the schooner Cora and absconded, abandoning the schooner and fifteen thousand dollars in his hands due on the cotton, and which I had requested him, the day previous, not to pay over to the parties. Mr. Mathi had scarcely left my door when I received a message from Mr. Berkely to call at once to see him, which I did, and found the attorney general with him. Those gentlemen informed me that, upon my representations, they were willing to issue a warrant for the arrest of all the parties. I replied that I had received information that the captain and pretended owner of the cotton had absconded in a boat, and abandoned the schooner; and that hence I would, during the course of the morning, write a note to the governor, asking that the vessel may be taken in charge by the authorities, and protected for the benefit of the owners and underwriters, after the necessary charges shall have been paid, and a copy of this requisition you have in inclosure No. 3. The attorney general remarked that if I would at once make the necessary communication to Judge Cockburn, the chief police magistrate, a warrant would issue; and he would dispatch a police force in a boat to seek for the parties along the coast and among the keys. With this request I immediately complied, and inclosure No. 4 will exhibit a copy of my note to Judge Cockburn. A warrant was issued and officers sent in pursuit, but to this moment no arrests have been made. Immediately after the issuing of the warrant, the governor, Mr. Berkely, without any suggestion or intimation from me, issued a proclamation, offering a reward

of five hundred dollars for the apprehension of the parties, a copy of which proclamation you have in inclosure No. 5, and inclosure No. 6 is a copy of my sworn declaration before the police magistrate. In compliance with my request the authorities took charge of the schooner and anchored her under the guns of the fort for safety, and placed a watch on guard on board. Upon an examination of the stern of the vessel in accordance with my suggestion, the name Garaty was plainly discovered, thus rendering the circumstantial evidence most conclusive.

Thus you will perceive that though the suspected parties have so far escaped, yet I have succeeded in saving, I think, every dollar of the property. All the cotton has been shipped to England, except eleven bales, which remain subject to the orders of the owners and underwriters, when found. Also, some fifteen thousand dollars of the money which was to have been paid to the absconded parties for the cotton, subject to the same orders. The money is in the hands of Mr. Mathi, a most respectable, honorable, and responsible merchant and gentleman. And further, Mr. Mathi has given me positive assurances that though he has paid seven thousand dollars in money to Captain J. F. Brown and pretended owner, Thomas Hogg, yet he stands ready and willing if demanded to pay that amount also over for the benefit of the legitimate owners. And the schooner, as before stated, is safely anchored and watched, for the benefit of the owners and underwriters. And I would beg to suggest that the department give such publicity to the matter in the United States as will be likely to lead to the discovery of the owners or underwriters of the American schooner Joseph L. Garaty, Captain James Nicholas, so that they may look to their interests, as the captain has not arrived here, and indeed may not, as it was only a supposition on his part that the vessel would be brought to Belize. I have written to the United States consul at Liverpool, stating the facts in the case, and also that at least two of the parties are known to have left this port in the Hamburg brig Carlos, for Liverpool, and if found on board on her arrival, to cause their arrest providing his evidence shall prove sufficient.

Though my proceedings in this case were somewhat unique in their character, and involving in their first stages great activity and responsibility, yet for the sake of the somewhat brilliant results, I trust my actions throughout may meet your approval.

You will doubtless discover my real objects and aims in my first proceedings. That for me to have gone at once before the police magistrate and demanded a warrant might have involved serious troubles, as the case then stood. I might have failed to make out a case upon the testimony of Mr. Benney and Mr. Mathi; the parties might have been discharged, and departed with the money and vessel, leaving behind directions to bring suit against me for false imprisonment and unlawful detention.

My object was, therefore, at first to endeavor to get the authorities committed in favor of the arrest. That accomplished, to take myself the balance of the responsibility, and make a bold and determined dash at them. And had I received the information two hours sooner, I would doubtless have secured the two leaders, Brown and Hogg.

In conclusion, I beg to record here my high gratification and admiration for the great promptness and alacrity manifested by all parties connected with this colonial government—from Mr. Berkely, the acting lieutenant governor, down—to bring to justice the guilty persons, and secure to the owners and underwriters the property, and I take great pleasure in mentioning those gentlemen by name, namely: Acting Lieutenant Governor George Berkely, Attorney General Walcott, Treasurer and Collector Henry Shaw, esq., Chief Police Magistrate Judge Cockburn, and Acting Colonial Secretary James Graham. And I trust that the department will be pleased to acknowledge in some suitable manner to the British government, through our minister at London, the activity of these gentlemen, as they all receive and hold their appointments by virtue of commissions issued from the office of his grace the Duke of Newcastle, in London.

With great respect, I have the honor to be, your most obedient servant,

CHAS. A. LEAS,

United States Commercial Agent.

HON. F. W. SEWARD,
Assistant Secretary of State.

N. B.—Inclosure No. 7 consists of copies of an additional statement from me before the police magistrate, giving as a basis of action more fully the particulars as they were related to me; also a sworn statement of Mr. Le Croix, the custom-house officer, who went on board the Eureka after her abandonment to examine her condition, and take charge on the part of the authorities.

CHAS. A. LEAS,

United States Commercial Agent.

Mr. Leas to Mr. Berkely.

UNITED STATES COMMERCIAL AGENCY,
Belize, December 15, 1863—4 p. m.

SIR: I have just been informed by a most respectable merchant of this place, who has within the past day or two returned from the coast of Yucatan, that information was communicated to him on the coast, that an American schooner had cleared from Matamoras for Havana with a cargo of one hundred and twenty-two bales of cotton and six passengers; that while at sea, the passengers took possession by force of the vessel and cargo, and sent the captain and crew ashore in a small boat. And it is further reported to me that the schooner Eureka, which arrived in this harbor a few days ago, is the one above alluded to. The schooner was named the Joseph L. Garaty, Captain James Nicholas, and the captain and sailors on board the Eureka are represented as the six passengers.

I, therefore, have the honor to request, most respectfully, that the schooner Eureka may be detained, and the captain and crew arrested and held for examination as to the facts above alluded to.

With great respect, I have the honor to be your excellency's obedient, humble servant,

CHAS. A. LEAS,
United States Commercial Agent.

To his Excellency GEORGE BERKELY,
Acting Lieutenant Governor, Belize.

Mr. Leas to Mr. Berkely.

UNITED STATES COMMERCIAL AGENCY,
Belize, December 15, 1863—7 p. m.

SIR: Since transmitting my note of this afternoon, 4 o'clock, I have been making some additional inquiries in regard to the case of the schooner Eureka, and find that the American schooner Jos. L. Garaty, which is alleged to have been forcibly seized at sea, was of the burden of one hundred and six tons, and had on board one hundred and twenty-two bales of cotton. The Eureka is of the burden of one hundred and six tons, and brought to this place one hundred and twenty-two bales of cotton. Mr. Benney informs me that the captain and crew of the Jos. L. Garaty were sent from the vessel, after her capture, in the small boat belonging to the schooner. The Eureka arrived here without a small boat, and the captain, when interrogated upon the subject, declared that he had lost it at sea. Mr. Benney also informs me that he is convinced that Captain James Nicholas, of the Jos. L. Garaty, will be here in a few days, in pursuit of the parties that captured from him his vessel; and he further alleges that if the stern of the Eureka be examined, evidence will doubtless be found of the forcible taking away of the former name. Mr. Benney stated that he obtained all his information from a gentleman who visited his vessel for the express purpose of communicating the facts, as the captain of the Garaty believed that the parties would take the vessel to Belize.

I also had another interview with Mr. Mathi, and in his possession found the register of the Eureka, which bears upon its face evidence of fraud, proving somewhat clearly to my mind that the passengers or parties having charge of the Eureka and her cargo might have armed themselves with a blank register, and filled it up at sea. The register declares the Eureka to be a confederate vessel, and her captain, J. F. Brown, to be a citizen of the so-called Confederate States and a resident of the State of Texas. The party alleging to be the owner of the cotton is named Thomas Hogg also set forth as a resident of the same State. I have also the honor to inform you that so firmly is Mr. Mathi convinced of the guilt of the parties, that he has declined to pay for a large portion of the cotton, knowing full well that if the statement should be proven true he would probably be required to refund to the legitimate owners. Therefore, in view of all these facts it seems to me that the surroundings are sufficiently strong to warrant the detention of the vessel sufficiently long to enable Captain Nicholas to arrive here from Yucatan, which, as before stated, Mr. Benney believes will be in a few days. And probably your excellency may also regard the circumstantial evidence sufficient to order the arrest of Thomas Hogg and Captain J. F. Brown, and also the four sailors. All of the latter, I understand, have left the vessel since her arrival in this port, and if not detained will be departing in other vessels which are now nearly ready for sea. One, I am informed, intends leaving in the British mail packet in the morning. In short, I feel convinced that if the vessel be detained a few days, sufficient evidence will be discovered.

Regretting much to trouble your excellency at so unseasonable an hour, I beg to be, with great respect, your excellency's most obedient, humble servant,

CHAS. A. LEAS,
United States Commercial Agent.

To his Excellency GEORGE BERKELY,
Acting Lieutenant Governor, Belize.

*Mr. Leas to Mr. Berkely.*UNITED STATES COMMERCIAL AGENCY,
Belize, December 16, 1863.

SIR: Mr. Mathi has this morning informed me that the captain of the so-called confederate schooner Eureka has absconded during the past night, thus totally abandoning the vessel, which, as I had the honor of informing your excellency in my note of last evening, 9 o'clock, is, in my opinion, as well as that of Mr. Benney and Mr. Mathi, the American schooner Jos. L. Garaty, Captain James Nicholas, which was forcibly taken from the possession of the said Captain James Nicholas by six passengers at sea, near Cape Catouche. In view, therefore, of this new condition of things, I have the honor to request that your excellency will be pleased to cause the said schooner to be taken in charge by the authorities here, and some competent person placed on board as guard or watch, for the ultimate benefit of the owners and underwriters, after the necessary charges are paid.

With great respect, I have the honor to be your excellency's most obedient, humble servant,

CHAS. A. LEAS,
*United States Commercial Agent.*To his Excellency GEORGE BERKELY,
*Acting Lieutenant Governor, Belize.**Mr. Leas to Judge Cockburn.*UNITED STATES COMMERCIAL AGENCY,
Belize, December 16, 1863.

DEAR SIR: On yesterday Mr. Benney and Mr. Mathi called at my office and communicated to me the following statement, namely, that he, Mr. Benney, had just returned from Yucatan; that while there a gentleman waited upon him at his vessel and gave information that an American schooner, called the Jos. L. Garaty, Captain James Nicholas, of the burden of one hundred and six tons, had departed, or cleared from Matamoras for Havana, with a cargo of one hundred and twenty-two bales of cotton and six passengers; that while at sea, near Cape Catouche, the passengers declared themselves confederates, took possession of the schooner, hoisted the so-called confederate flag, and sent Captain Nicholas, with his crew, on shore in the small boat belonging to the schooner. At the time when Mr. Benney was in Yucatan his informant stated that Captain James Nicholas was then in Merida, entering his protest, and that the parties would doubtless take the vessel to Belize. Some days ago a schooner, called the Eureka, of the burden of one hundred and six tons, entered this port under the so-called confederate flag, and contained a cargo of one hundred and twenty-two bales of cotton. She was also without a small boat, which the captain alleged, upon interrogation, had been lost at sea. The Eureka was commanded by Captain J. F. Brown, and the cargo was alleged to be owned by a Thomas Hogg.

From all the surroundings, Mr. Benney and Mr. Mathi are of the opinion that this schooner Eureka is the Jos. L. Garaty, Captain James Nicholas; and Captain J. F. Brown, Thomas Hogg, and the four sailors on board, are the six passengers that left Matamoras in the said schooner Jos. L. Garaty. Therefore, in view of all the facts, I am also of the opinion that the Eureka is the James L. Garaty, and the captain and pretended owner of the cargo and sailors the six passengers. And I have also the honor to say that such is the opinion of his excellency, the acting lieutenant governor, and the honorable the attorney general, from the facts and circumstances set forth, at least sufficient to warrant the detention of the vessel and parties for examination, and have the honor to solicit that you will be pleased to cause warrants to be issued for the arrest of the said Captain J. F. Brown, Thomas Hogg, and the four sailors of the so-called confederate schooner Eureka, so that the facts, as represented by Mr. Benney and Mr. Mathi, may be diligently inquired into.

With great respect, I have the honor to be your most obedient servant,

CHAS. A. LEAS,
*United States Commercial Agent.*Hon. JUDGE COCKBURN,
Chief Police Magistrate, Belize.

\$500 REWARD.

Whereas information has been laid before the police magistrate that certain persons named J. F. Brown and Thomas *alias* James Hogg, with four other persons, whose

names are unknown, have committed an act of piracy on the high seas; the above reward will be paid for the capture, and to any persons aiding in the capture of the said parties, in such proportion as the lieutenant governor shall direct.

DESCRIPTION.—Hogg is a fair, slender person, of sharp features, with light hair and blue eyes, rather above the middle size, very gentlemanly in his manner and bearing, and wears moustaches and whiskers, and an imperial on the chin.

Brown is a short, square-built, sun-burnt, rough, sailor-looking person, suspected to be an Englishman by birth.

By command:

THOMAS GRAHAM,
Acting Colonial Secretary.

COLONIAL SECRETARY'S OFFICE,
Belize, December 16, 1863.

BRITISH HONDURAS, to wit:

The information and complaint of Charles Albright Leas, of Belize, commercial agent for the United States of America, taken this 15th day of December, in the year of our Lord one thousand eight hundred and sixty-three, before me, Samuel Cockburn, esquire, one of her Majesty's justices of the peace and police magistrate in and for the colony of British Honduras, aforesaid, at Belize, in the said colony, which said Charles Albright Leas, being sworn upon his oath, saith that from credible information which he has received he has reason to suspect and believe that the schooner Eureka, J. F. Brown, master, which arrived at this port under the confederate flag, on the 7th day of December, instant, with one hundred and twenty-two bales of cotton, one passenger named Thomas Hogg, alleged to be the owner of the cargo, and four seamen, is the American vessel, the Joseph L. Garaty, James Nicholas, master, which cleared from Matamoras for Havana not many days ago, and was taken possession of on the high seas by certain passengers who were on board the said vessel, and who put the said master, James Nicholas, and crew on shore somewhere in the neighborhood of Cape Catouche, and that the said J. F. Brown, who represented himself as the master of the said schooner Eureka, and the said Thomas Hogg, who represented himself as the owner of the said cargo of cotton, and also the four seamen on board, are the parties who committed the piracy; and this deponent further saith that he is credibly informed, and verily believes that two of the said seamen embarked on board the Hamburg brigantine Carlos, which left this port yesterday, and that the said J. F. Brown and the said Thomas Hogg, with the other two seamen, have abandoned the said schooner Eureka and have absconded from this place, and he violently suspects that they are on board the royal mail steam-packet Teviot, now about to leave this port, or are secreting themselves about the keys, awaiting to join her in passing.

CHARLES ALBRIGHT LEAS,
United States Commercial Agent.

The information and complaint within written was taken upon oath in Belize, in the said colony, the day and year first within written, before me.

A. COCKBURN,
Police Magistrate.

BRITISH HONDURAS, *Wednesday, December 16, 1863.*

In the police court.

BELIZE, to wit:

Regina, on the information of Charles Albright Leas, commercial agent for the United States of America, *vs.* James F. Brown, Thomas Hogg, and four seamen of the schooner Eureka.

Charles Albright Leas, sworn, saith: I reside in Belize. I am the commercial agent of the United States of America. Yesterday Mr. William Benney, of the house of Gile & Co., of Belize, having just returned from Yucatan, called at my office and stated that while he was at Yucatan a gentleman waited upon him and informed him that an American schooner, called the Joseph L. Garaty, of which James Nicholas was the master, of the burden of one hundred and six tons, had cleared from Matamoras for Havana, with a cargo of one hundred and twenty-two bales of cotton and six passengers; that while at sea, near Cape Catouche, the passengers declared themselves confederates and took possession of the vessel, hoisted the confederate flag, and sent Captain Nicholas and crew on shore in the small boat belonging to the schooner; and that while he, Mr. Benney, was at Yucatan, he understood that Captain Nicholas was at Merida entering his protest, and was under an impression that the parties would take the vessel to Belize. Some days ago, on the 7th instant, I believe, a schooner called

the Eureka, of one hundred and six tons burden, with four seamen, sailing under the confederate flag, entered this port with a cargo of one hundred and twenty-two bales of cotton. She was also without a small boat, which the captain alleged to have been lost at sea. The Eureka was commanded by one J. F. Brown, and the cargo was alleged to be owned by one Thomas Hogg, who sold the cargo to the Hon. Antonio Mathi. From these facts and circumstances I have a violent suspicion, and I verily believe, that this schooner Eureka is the J. L. Garaty, and that Captain J. F. Brown and Thomas Hogg and the four sailors are the six passengers that left Matamoras in the said schooner J. L. Garaty, and committed the said act of piracy. I am also further informed, and verily believe, that two of the said sailors embarked on board the Hamburg brigantine Carlos, Captain Hullwall, which left this port yesterday for Liverpool, and that the said J. F. Brown and Thomas Hogg, with the other two seamen, abandoned the said schooner Eureka last night, and have absconded from this port, and have not been seen since.

CHAS. A. LEAS,
United States Commercial Agent.

James Henry La Croix, sworn, saith: I am head searcher in the customs department. By direction of the acting collector of customs I went this forenoon on board the schooner known by the name of the Eureka, at present in this port. I found nobody on board. The cabin was in a state of confusion—charts and other things open and thrown carelessly about. On coming up from the hold, I saw a young man named George O'Neil on deck, who told me he was in charge of the vessel. I asked him if he knew where the captain and crew of the Eureka were. He said he believed they were on shore; that last night they came on board, and among other things they passed up from the boat were two parcels which he thought contained money, as they were very heavy. They told him he need not remain, as they intended to sleep on board, and gave him a dollar to go on shore and enjoy himself; that he went on shore accordingly, leaving them on board, and had seen nothing of them since; that he was on board the schooner Cora, anchored not far off, and seeing me come on board the Eureka, he had followed me. He then opened the lockers and looked about, and said several things were wanting. We saw no money. I then went on shore to report. I afterward went on board again to examine the stern, which was painted all over black, to see if I could distinguish any name. On examination I could plainly distinguish the letters ARATY, which appeared to have been roughly scraped out and recently painted over in black. I could also see where other three letters had been more effectually scraped out, and could not make out what they were.

JAS. HENRY LA CROIX, *Head Searcher.*

Mr. Seward to Lord Lyons.

DEPARTMENT OF STATE,
Washington, January 16, 1864.

MY LORD: This department has been informed by Mr. Leas, the commercial agent of the United States at Belize, British Honduras, that recently the United States schooner J. L. Garaty, while on a voyage from Matamoras to Havana, with a cargo of cotton and with six passengers, was taken possession of by the latter, her master and crew being placed in the boat from which it is supposed they subsequently landed on the coast of Mexico. The flag of the insurgents having then been hoisted on the vessel, and her name changed, she went to Belize and disposed of her cargo. The leaders in this act of piracy were J. F. Brown and Thomas Hogg. The names of the four others are not known.

Mr. Leas endeavored to have them arrested, in order that they might be delivered up for trial in this country, pursuant to the tenth article of the treaty of Washington; but although the authorities at Belize were prompt and courteous upon the occasion, the pirates, according to our last intelligence, had probably escaped beyond the jurisdiction of those authorities. If, however, they should hereafter be found there, or in any other part of her Majesty's dominion, their delivery as aforesaid will be expected, in conformity with the very proper disposition manifested by the authorities at Belize. The vessel remains at Belize. Her restitution will also be expected.

I have the honor to be, with high consideration, my lord, your obedient servant,
WILLIAM H. SEWARD.

Right Hon. LORD LYONS, *&c. &c. &c.*

Lord Lyons to Mr. Seward.

WASHINGTON, January 18, 1864.

SIR: I have the honor to acknowledge the receipt of your note of the day before yesterday's date, relative to the United States schooner J. L. Garaty, which was seized by passengers on board and carried to Belize. I have lost no time in forwarding a copy of it to her Majesty's government.

I have the honor to be, with the highest consideration, sir, your most obedient humble servant,

LYONS.

HON. WILLIAM H. SEWARD, *Sec., &c., &c.*

Mr. F. W. Seward to Mr. Dudley.

No. 273.]

DEPARTMENT OF STATE,

Washington, January 18, 1864.

SIR: I transmit herewith a copy of a communication received from the United States marshal, at New York, and of the inclosure which accompanied it, together with a printed slip, all relating to the seizure of an American schooner, the Joseph L. Garaty, by rebel passengers, and the embarkation of the pirates for Liverpool on board the Hamburg brig Carlos, bound for Liverpool. You will immediately proceed to take such steps as may be proper in the premises, and consistent with the provisions of the British law and extradition treaty between the United States and Great Britain, to arrest the offenders and send them to the United States for trial. You will acquaint Mr. Adams with the circumstances of the case, and act under his instructions.

The marshal has been instructed to furnish you with such depositions as may aid you in carrying into effect this instruction.

You will keep a separate account of the expenses which you may incur under this instruction, to be paid as heretofore indicated in section No. 13, of circular No. 40, taking care to transmit the account to this department, with the vouchers.

I am, sir, your obedient servant,

F. W. SEWARD,
Assistant Secretary.

T. H. DUDLEY, Esq.,
United States Consul, Liverpool.

Mr. Murray to Mr. Seward.

UNITED STATES MARSHAL'S OFFICE,
SOUTHERN DISTRICT OF NEW YORK,
New York, January 16, 1864.

SIR: I have the honor herewith to transmit to the department a letter received by me this day from Walter Greenough, jr., giving a description of the parties that captured the schooner Joseph L. Garaty, together with the additional information that the pirates have taken passage in the Hamburg brig Carlos, loaded with logwood, and bound for Liverpool.

I respectfully suggest the letter be sent to our consul at Liverpool, together with instructions to have them arrested on their arrival at that port.

I remain, very respectfully, your obedient servant,

ROBERT MURRAY,
United States Marshal.

HON. WILLIAM H. SEWARD,
Secretary of State, Washington, D. C.

Mr. Greenough to Mr. Murray.

NEW YORK, Thursday, January 14, 1864.

DEAR SIR: I see by this morning's Herald news from Belize, Honduras, of the detention of the schooner Jos. L. Garaty, and the escape of the pirates.

The paper states that four sailors took passage in the Hamburg brig (full rigged) Carlos, loaded with logwood, and bound for Liverpool. These four men I will endeavor to describe:

Wilson, a short, thick man; was sailing-master, and the only navigator in the party;

has a defect in one eye; is well-known in New York; has been a long time in jail here; having been taken in a slaver on the coast of Africa.

Clements, who ranked as mate under Wilson, is a slim man; about twenty-five years of age; black hair and eyes; stoops a little; has been in bad health in Texas; he is the man who shot at me; a native of Ireland.

Kelly, a tall, stout Irishman; was sailor; has a broken nose, and second finger cut off. O'Brien, a man like Kelly; carpenter; full beard; red face.

The three last-mentioned men have been a long time in the confederate service, and are very desperate men.

Hoping that they will be secured on their arrival at Liverpool, and full justice awarded them.

I remain your obedient servant,

WALTER GREENOUGH, JR.

ROBERT MURRAY, Esq.,

United States Marshal, Southern District of New York.

Mr. Adams to Mr. Seward.

No. 601.]

LEGATION OF THE UNITED STATES,
London, February 18, 1864.

SIR: I have received from Mr. Dudley, the consul at Liverpool, a copy of a dispatch addressed to him by the Assistant Secretary of State, directing him to take the necessary measures to reclaim certain persons charged with crimes committed on board the schooner J. L. Garaty, under the provisions of the extradition treaty of 1842.

Previous to the reception of this information, I had, on the strength of a deposition made by the captain of that vessel, come to the conclusion to apply for a warrant to arrest four of the persons concerned in that enterprise, who were alleged to be in Liverpool.

I have the honor to be, sir, your obedient servant,

CHARLES FRANCIS ADAMS.

Hon. WILLIAM H. SEWARD,
Secretary of State.

Mr. Dudley to Mr. Seward.

No. 232.]

UNITED STATES CONSULATE,
Liverpool, February 19, 1864.

SIR: I have the honor to acknowledge the receipt of your dispatch No. 273, inclosing a communication from the United States marshal at New York, &c., relating to the seizure of the schooner Joseph L. Garaty, and requesting me to take steps to arrest the pirates supposed to be on the Carlos, now on her way to Liverpool, upon their arrival at this port.

You will see by the inclosures that we have anticipated your dispatch. Our commercial agent at Belize wrote me on the supposed embarkation of three of the persons engaged in the capture of the Garaty. His letter was received on the 14th of January last; on same day I inclosed it to Mr. Adams, asking for instructions, &c. His answer is dated 15th of January. At that time he entertained some doubts about making an application for their arrest. Inclosure No. 1 is a copy of my note to him, and No. 2 of Mr. Adams's answer. About two weeks ago the bark Carlos arrived, and it is said brings either three or four of the pirates, who are now supposed to be in Liverpool. The day after, Captain Nicholas, who had command of the Garaty at the time of her capture, also arrived in the steamer from the United States to look after the cotton from his vessel which was on the Carlos. As soon as I could get hold of him I took his affidavit, a copy of which is now inclosed, marked exhibit No. 3, and on same day sent a copy to Mr. Adams. Inclosure No. 4 is a copy of my dispatch to Mr. Adams, with a copy of affidavit. On 13th instant, the assistant secretary of legation wrote, by direction of Mr. Adams, for the original affidavit, and stated that Mr. Adams had concluded to make a demand on the government for the arrest and extradition of the offenders. Inclosure No. 5 is a copy of Mr. Moran's letter to me. I have not been as yet advised of the result of the demand made by Mr. Adams.

I am, sir, your obedient servant,

THOMAS H. DUDLEY.

Hon. WILLIAM H. SEWARD,
Secretary of State.

Mr. Dudley to Mr. Adams.

UNITED STATES CONSULATE,
Liverpool, January 14, 1864.

SIR: I received this morning the inclosed letter—which please return after you have read it—from our commercial agent at Belize. Suppose the agent is right, and a part of the pirates are on the *Carlos*, and I can obtain evidence of the facts, what shall I do? Is it worth while to have the men arrested under the treaty, with the view of having them returned to the States for trial? Please advise me.

I am, sir, your obedient servant,

THOMAS H. DUDLEY.

HON. CHARLES FRANCIS ADAMS.

Mr. Adams to Mr. Dudley.

LEGATION OF THE UNITED STATES,
London, January 15, 1864.

SIR: I return the letter of Mr. Leas. The question which you propose is difficult to answer without first knowing what act the evidence against the parties would prove. Hence the probabilities are great that their capture of the vessel without bloodshed would be construed as justifiable belligerent action on the ocean. If you will glance at the language of the tenth article you will perceive at once what I mean.

At the same time, I think it would be well, if possible, to get any evidence you can find in the case, for other reasons than that connected with a demand under the treaty. I may be able to make good use of it with the government here.

I think I may as well issue the notice to the consulates.

I have the honor to be, sir, your obedient servant,

CHAS. FRANCIS ADAMS.

THOMAS H. DUDLEY, Esq.,
United States Consul, Liverpool.

P. S.—Your telegram is received. What evidence have you of any such scheme? Is it on the authority of an anonymous letter like one received by me?

Mr. Dudley to Mr. Adams.

UNITED STATES CONSULATE,
Liverpool, February 10, 1864.

SIR: I inclose you a copy of James Nicholas's affidavit. Mr. Nicholas was the captain of the schooner *Joseph L. Garaty*, recently captured by pirates in the Gulf of Mexico, as detailed in the affidavit.

Three of the pirates, it is now understood, are in Liverpool. My object in sending the copy is to ask if I shall have these men arrested, with the view of demanding them under the treaty, to be sent to the United States for trial for the offense alleged against them.

I am, sir, very respectfully, your obedient servant,

THOMAS H. DUDLEY.

HON. CHARLES FRANCIS ADAMS,
United States Minister, &c.

AFFIDAVIT OF JAMES NICHOLAS.

James Nicholas, of New York, in the United States of America, but now temporarily staying at Liverpool, in the county of Lancaster, master mariner, states:

I was lately master of the schooner *Joseph L. Garaty*, of New York aforesaid, which vessel was lying in Matamoras, in the month of November last, bound on a voyage to New York with a cargo of cotton, consigned to Francis Garaty, and then under the command of Captain Davis, who placed me in command of said schooner. On the 16th of November, 1863, the said Captain Davis brought on board said schooner six persons, named respectively, T. E. Hogg, of Baltimore; G. Brown, of Canada; F. Wilson, of New York; James Clements, ——— Kelly and Daniel O'Brien, who he informed me had engaged passages with him in the said schooner to New York, and told me to treat them well, and we gave up our rooms for their accommodation. Captain Davis gave me instructions to

put into Key West, in case we ran short of anything, and that Mr. Hogg would advance me any money I required, for which I was to give him a draft on the house in New York.

The said Captain Davis took charge of a barque called the *Marian*, bound from Matamoras to New York.

On the same day we sailed from Matamoras, on the said voyage, and nothing particular happened until the evening of the 17th inst., when we all had supper together at about 6 o'clock. During supper the conversation was principally about the weather, which at the time was squally, and the above-named persons seemed to be very anxious about the state of the weather. It was my watch below from 8 to 12 p. m., but I was very restless about the state of the weather, and came on deck several times, and on the first time I saw Mr. Hogg on deck, who, together with the other persons, I concluded had gone below. I came on deck about 11 p. m. Whilst I was walking the deck I saw Hogg, Brown, Kelly, and O'Brien there, and about 12 o'clock the watch was relieved and my mate went below, and I took charge of the watch, and about half past 12 a. m., on the morning of the 18th, as I was walking to and fro along the deck, Brown suddenly seized me by the arm, and as I was struggling to free myself, O'Brien, Kelly, and, I think, Wilson then pounced upon me, and Brown said to me, "Shout, and you are a dead man." They then confined me to the forecabin, and O'Brien kept watch over me, Brown having given him instructions that if I made any resistance he was to shoot me. At the time I was seized the boy was aloft, and on his coming down on to the deck he was at once seized, and on his calling out for me, one of the men struck him on the head with a revolver, which rendered him insensible, and they then brought him to the forecabin. The mate was awoke by the confusion, and on springing to the ladder to come on deck, he was met by all, who threatened to shoot him unless he remained where he was. The mate then came to the berth of Mr. Greenough, the supercargo, and informed him that we were all taken prisoners, and on attempting to go up the ladder on deck he was stopped by Hogg and Brown, and Clements fired a shot at him through the skylight window, which missed him. They then brought the mate into the forecabin with me and confined him there. They kept Mr. Greenough confined aft. At about half past seven a. m., one of the party asked me to come aft, and on my reaching the cabin, Hogg asked me to take breakfast with them, which I declined. Hogg then said to me, "We will not do you any harm, Captain;" that he had proper documents in his possession to justify him in what he had done, to take northern property. We were kept in confinement, but were sometimes allowed on deck for exercise, and while I was taking exercise, Hogg observed to me that we were very fortunate in falling into such hands as theirs, as, if we had fallen into the hands of other parties fighting for the same cause, we would have been shot without any mercy. He said this to console my feelings, seeing that I was much depressed with the circumstances under which I was placed. On the 25th November I was again called aft, when Hogg said to me that we may leave the ship in one of the boats, and he then asked me for a certificate which was signed by the consul at Matamoras, certifying that the vessel was northern property, which was to be shown to any of the blockading fleet which might board us. I told them that they had all my papers. He said he did not believe me, and after holding a conversation among themselves they threatened to throw me overboard. They then placed myself, the mate, supercargo, steward, and a boy in a boat; but before doing so, I asked them to give me a chart and compass to enable me to find my way, which they refused to do. We were seven days in the boat, and on the 2d December, we reached Sisal, in Yucatan. I then went to the American consular agent there, who sent me to Merida, the capital town, where I saw the consul, and made a protest before him, and the crew were sent direct to New York. On the 14th day of December, Mr. Greenough and myself arrived at Havana, from which place I wrote to the American consul at Belize, Honduras, and Matamoras, detailing the above facts. We arrived at New York on the 23d of December, and I then went to my agents and reported myself. The crew arrived in New York about seven days after me. About the 17th January last, I learned that my vessel had arrived at Belize, aforesaid, under the name of the *Urica*, and that her cargo of cotton had been sold for \$8,000 cash, and \$22,000 in English bills. The cotton was then transhipped into a brig called the *Carlos*, bound for Liverpool. After the sale of the cotton, the true name of my ship was discovered, and on that becoming known, the before named parties abandoned her and absconded. Four of them—namely, Clements, Wilson, Kelly, and O'Brien—took passages in the said brig *Carlos* for Liverpool, where I believe they now are. Hogg and Brown, I believe, left my vessel in a small boat, their destination being unknown to me.

J. NICHOLAS.

Sworn at Liverpool, aforesaid, the fifth day of February, 1864, before me.

JNO. _____

A Commissioner to Administer Oaths in Chancery, in England.

Mr. Moran to Mr. Dudley.

LEGATION OF THE UNITED STATES,
London, February 12, 1864.

SIR: In acknowledging the reception of your note of the 10th instant, with its inclosure, I am directed by Mr. Adams to inform you that he has concluded to make a demand upon the British government for the arrest and extradition of the pirates of the schooner Joseph L. Garaty. But in order to do this properly he must be furnished with the *original* deposition of Captain Nicholas. He will therefore be obliged to you for that document at your earliest convenience.

I have the honor to be, sir, your obedient servant,

BENJAMIN MORAN,
Assistant Secretary of Legation.

THOMAS H. DUDLEY, Esq.,
U. S. Consul, Liverpool.

Mr. Dudley to Mr. Seward.

[Extract.]

No. 235.]

UNITED STATES CONSULATE,
Liverpool, February 27, 1864.

SIR: I have the honor to inform you that the police, to whom the warrant was intrusted in the case of the piracy of the Joseph L. Garaty, succeeded in arresting three of the parties, to wit, Wilson, Kelly, and Clements. The hearing came off yesterday, before Mr. Raffles, the stipendiary magistrate. I inclose you, marked No. 1, the proceedings as cut from the Courier of this morning. The evidence to me seems to be conclusive against the prisoners so far as the act of piracy is concerned, and there is not one particle of evidence to show they were acting as confederates; they merely allege they were so acting, but bring no proof to establish it. The case as it stands is a bold and clear case of piracy, without a particle of evidence to extenuate or justify it. He will render his decision next Friday.

I am, sir, very respectfully, your obedient servant,

THOMAS H. DUDLEY.

Hon. WILLIAM H. SEWARD,
Secretary of State.

[For judicial proceedings see appendix at the end of this subdivision, p. 375.]

Mr. Dudley to Mr. Seward.

[Extract.]

No. 239.]

UNITED STATES CONSULATE,
Liverpool, March 4, 1864.

SIR: I deemed it best to have the proceedings in the case against the pirates of the Joseph L. Garaty taken in short-hand. They did not furnish me with their report until yesterday. I now inclose you a correct copy of the evidence before the magistrate. It is marked inclosure No. 1. You will see, from a perusal, that there is no evidence that the prisoners were acting under confederate authority, and that the case of piracy is fully made out. This morning was the time fixed to render a decision in the case. The magistrate informed Mr. Squarey and myself that he had referred the matter to the Home Office; up to the present time had not heard from them, and adjourned his decision for another week. I was not unprepared for this announcement. * * * * * If these men had set up that they were confederates acting under confederate authority in capturing the Joseph L. Garaty, and had produced evidence of this before the magistrate, there might be some excuse for his submitting the question to the home secretary, but no justification for their refusal to deliver the men under the treaty. But here the magistrate assumes a fact without its being proved, acts upon this assumption, presents it to the home secretary for the opinion of the government, as though it had been set up and established in the case, and is no doubt quite prepared to set the men at liberty if the home secretary shall say that if they are confederate officers, acting under the confederate government, he should do so, though there is not one word of

evidence in the whole case that either proves them to be confederate officers or that they had authority from the confederate government to seize the vessel. The case as proved and submitted to the magistrate was one of bold and naked piracy, without extenuation, excuse, or justification.

I am, sir, your obedient servant,

THOMAS H. DUDLEY.

HON. WILLIAM H. SEWARD,
Secretary of State.

[For judicial proceedings see appendix at the end of this subdivision, p. 378.]

Mr. Dudley to Mr. Seward.

No. 243.]

UNITED STATES CONSULATE,
Liverpool, March 11, 1864.

SIR: The pirates of the J. L. Garaty were brought up again this morning, and further remanded until this day week.

In remanding them, Mr. Raffles said that he wanted further information in the case, and would remand them to give them an opportunity of producing evidence in proof of their statement that they were acting as confederates, by confederate authority. He would not say what the legal effect of that evidence might be—it was for investigation when it was produced. *That as the case now stood upon the evidence before him it was a clear case of piracy.*

Very respectfully, I am, sir, your obedient servant,

THOMAS H. DUDLEY,
By H. S. WILDING, *Vice-Consul.*

HON. WILLIAM H. SEWARD,
Secretary of State.

Mr. Seward to Mr. Adams.

No. 876.]

DEPARTMENT OF STATE,
Washington, March 14, 1864.

SIR: Your dispatch of the 18th ultimo, No. 601, has been received. The President attaches much importance to the case therein referred to, in view of the existing state of relations with Great Britain and her provinces. Your proceedings in this matter are approved.

I am, sir, your obedient servant,

WILLIAM H. SEWARD.

CHARLES FRANCIS ADAMS, Esq., *ſc.*, *ſc.*, *ſc.*

Mr. Adams to Mr. Seward.

[Extract.]

No. 625.]

LEGATION OF THE UNITED STATES,
London, March 18, 1864.

SIR: The proceedings at Liverpool, under the demand for the arrest of the pirates concerned in the case of the Joseph L. Garaty, and their delivery under the treaty, are very slow. The magistrate has repeatedly postponed a decision for the purpose of giving the parties time to show some authority for their acts of outrage.

I have the honor to be, sir, your obedient servant,

CHARLES FRANCIS ADAMS.

HON. WILLIAM H. SEWARD,
Secretary of State.

Mr. Dudley to Mr. Seward.

No. 246.]

[Extract]

UNITED STATES CONSULATE,
Liverpool, March 19, 1864.

SIR: Referring to dispatches Nos. 243 and 235, and the case against the pirates of the schooner Joseph L. Garaty, I have now to report that at eleven o'clock yesterday, the

time to which the case was last adjourned, I attended with Mr. Squarey, my lawyer. After waiting some time, Mr. Melly, who was on the bench as presiding magistrate, informed me that Mr. Raffles was serving on the grand jury, and had instructed him to call up the case, and adjourn it for seven days longer to enable the prisoners to sue out a writ of *habeas corpus*. I told him Mr. Squarey, my legal advisor, was in the court, and that we should oppose this or any other motion that might be made for a further continuance of the case. Mr. Squarey came up and informed the court that he was instructed to oppose any further adjournment of the case, and to ask that the prisoners be at once delivered to the authorities of the United States, or be committed to prison to await the warrant for their extradition. The presiding magistrate said if the continuance was to be opposed he thought it best to send for Mr. Raffles, who had heard the case. After waiting from eleven o'clock until one, and Mr. Raffles not coming, it was agreed that the matter should stand over until this morning. Mr. Cobb, on behalf of the prisoners, asked that the case should be postponed seven days longer to enable the prisoners, to sue out a writ of *habeas corpus*; stated that an affidavit had already been made and presented to Justice Wells for the writ. Mr. Squarey called attention to the treaty between the United States and Great Britain, and to the statute on the subject; objected to any further postponement; stated that the case had been submitted on both sides, and that there was nothing left for the magistrate to do but to dismiss, or order the prisoners to be committed to prison to await the writ of extradition from the British government; reminded the magistrate that he had admitted on the previous day that the case as it stood was proved and was one of clear piracy. The magistrate said, in reply, that he should not take back or deny anything that he had previously said; that the case was undoubtedly made out, but was one of a very serious nature, and that he should therefore grant the application and adjourn the case for seven days, and then continue to adjourn it from week to week, without argument, until the middle of the next term, to give the prisoners an opportunity to have it heard by a full bench on *habeas corpus*; and that before finally committing the prisoners he would give their counsel one week's notice. The conduct of Mr. Raffles, the stipendiary magistrate, before whom this case has been heard, is most extraordinary. It may not be amiss to briefly recapitulate what has been done. On the day first fixed for the hearing, the 25th of February last, myself and lawyer attended. When the prisoners appeared, Mr. Raffles, the magistrate, asked if they had a lawyer. They answered no. The policeman who stood next to them stated that they thought it not worth while to employ a lawyer. The magistrate suggested that they should be defended, and directed them to go down stairs with the women who were represented to be their wives and talk about it. They all went down, and after remaining some time came up attended by Mr. Cobb, a lawyer, who asked that the case might be continued until the next day. This was granted. On the next day the parties all appeared, the prisoners attended by their lawyer. The case was gone into, the evidence all taken, and the lawyers heard in argument, and the case committed to the justice on both sides. It established a clear case of piracy, without the least extenuation or justification. At the conclusion, the magistrate stated that he should defer his decision for one week. I attended with my lawyer at the time to which it was adjourned. He then informed us that he had sent up the evidence to the Home Office, and was waiting for instructions, which he had not received, and should be under the necessity of postponing the case for seven days longer. On the day to which the case was last adjourned, Mr. Wilding, the vice-consul, in my absence, and Mr. Squarey attended. The magistrate then informed them that he wanted further information in the case, and would remand the prisoners seven days longer, to give them an opportunity of producing evidence in proof of their statement that they were acting as confederates by confederate authority. He would not say what the legal effect of that evidence might be; it was for investigation when it was produced. As the case then stood upon the evidence before him, it was a clear case of piracy. The last seven days are now up, no evidence produced, and it is difficult to see upon what principle it could have been introduced at this stage of the case, after the evidence has all been heard and the case submitted to the magistrate for his decision, without violating every principle upon which legal proceedings are conducted.

And he now shifts the reason for postponing the case, and announces that he does it to enable the parties to sue out a writ of *habeas corpus*. * * * It must be remembered that there has been no evidence whatever adduced in the case to show that the prisoners are confederates, or that they were acting under confederate authority at the time they seized the vessel; and their conduct and the appropriation of the property on board to their own use, and then stating, when it is found upon them, that they purchased it in New York, is quite at variance with the suggestion that they were confederates acting under their authority.

It appears from the newspapers, as well as from what their lawyer said in court, that they yesterday applied to Justice Wells for a writ of *habeas corpus*. I inclose you a slip out from the Daily Post of to-day. I have instructed Mr. Squarey to employ counsel and follow the case up.

I have informed Mr. Adams of these proceedings. I inclose you another corrected copy of the evidence taken in this case.

I am, sir, very respectfully, your obedient servant,

THOMAS H. DUDLEY.

Hon. WILLIAM H. SEWARD,
Secretary of State.

[For slips taken from the Post see appendix at the end of this subdivision, p. 379.]

Mr. Seward to Mr. Adams.

No. 878.]

DEPARTMENT OF STATE,
Washington, March 21, 1864.

SIR: Mr. Dudley, our consul at Liverpool, has made a report to this department upon the delays of the proceedings on our requisition in the case of the pirate Joseph L. Garaty. I trust that you are doing what can be done to secure a surrender of the offenders.

I am, sir, your obedient servant,

WILLIAM H. SEWARD.

CHARLES FRANCIS ADAMS, Esq., *fc., fc., fc.*

Mr. Dudley to Mr. Seward.

[Extract.]

No. 248.]

UNITED STATES CONSULATE,
Liverpool, March 23, 1864.

SIR: Referring to dispatch No. 246, and the case against the pirates of the schooner Joseph L. Garaty, I now inclose you, marked No. 1, the proceedings had in said case on Saturday last, as taken down by a reporter employed by myself. Also the proceedings as cut from the Daily Post and Courier of last Monday. The latter is marked inclosure No. 2. The case, as it now appears, is to be taken to London. I have directed my counsel, Mr. Lush, to appear on behalf of the United States when it is brought up, and if, in his judgment, necessary, to employ other counsel to assist him.

I am, sir, very respectfully, your obedient servant,

THOMAS H. DUDLEY.

Hon. WILLIAM H. SEWARD,
Secretary of State.

[For judicial proceedings see appendix at the end of this subdivision, p. 380.]

Mr. Seward to Mr. Adams.

No. 896.]

DEPARTMENT OF STATE,
Washington, April 4, 1864.

SIR: Your dispatch of March 18, No. 625, has been received. The delay, perhaps I may call it the hesitation, which the magistrate exhibits in the case of the pirates of the Joseph L. Garaty, is regarded by the President with surprise and anxiety. You will have learned before the arrival of this dispatch that certain arrested offenders, who were engaged in the piracy committed on board the Chesapeake, have been set free by the judicial authorities of the colony of New Brunswick. That subject has been carefully considered here, and it will be my duty to direct a remonstrance concerning it to her Majesty's government. It is to be earnestly hoped that the action of the home judiciary of the United Kingdom may not be found as objectionable and injurious as that of the province of New Brunswick.

I am, sir, your obedient servant,

WILLIAM H. SEWARD.

CHARLES FRANCIS ADAMS, Esq., *fc., fc., fc.*

Mr. Seward to Mr. Adams.

No. 900.]

DEPARTMENT OF STATE,
Washington, April 5, 1864.

SIR: We are informed by Mr. Dudley that the case of the extradition of the pirates who captured the United States schooner Joseph L. Garaty is to be removed to London for final decision. Instructions in regard to the questions involved in that case, and also in that of the pirates of the Chesapeake, including a disquisition on the article of the Ashburton treaty and the laws for carrying it into effect, will probably be forwarded to you by the next steamer.

I am, sir, your obedient servant,

WILLIAM H. SEWARD.

CHARLES FRANCIS ADAMS, Esq., &c., &c., &c.

Mr. Adams to Mr. Seward.

No. 643.]

LEGATION OF THE UNITED STATES,
London, April 8, 1864.

SIR: In regard to the subject of your dispatch No. 878, of the 21st of March, the delay, at Liverpool, in the proceedings on the claim for the surrender of the pirates who seized the schooner Joseph L. Garaty, I have the honor to report that on the very day of the date of that paper I addressed a note to Lord Russell remonstrating against the delay. A copy of the note and accompanying papers from Mr. Dudley is transmitted. A copy of his lordship's formal acknowledgment, of the same date, is likewise sent. Since that, no further communication has been received from him, neither has any information been received from elsewhere.

I have the honor to be, sir, your obedient servant,

CHARLES FRANCIS ADAMS.

HON. WILLIAM H. SEWARD,
Secretary of State.

Mr. Adams to Earl Russell.

LEGATION OF THE UNITED STATES,
London, March 21, 1864.

MY LORD: I have the honor to submit to your consideration copies of two letters received from Mr. Dudley, the consul of the United States at Liverpool, in relation to the proceedings had at that place on my application for the surrender of certain persons under the treaty of extradition between Great Britain and the United States.

It is unfortunately too obvious that the intent of the magistrate is, so far as the power may rest with him, to annul the provisions of that treaty in the present instance. I trust I may be pardoned if I point out to your lordship how grave would be the consequences to the permanence of the obligations of that compact, if such an example were to be set in Great Britain for imitation in other cases when the call may be made upon the United States.

I pray your lordship to accept the assurances of the highest consideration with which I have the honor to be, my lord, your most obedient servant,

CHARLES FRANCIS ADAMS.

Right Hon. EARL RUSSELL, &c., &c., &c.

Mr. Dudley to Mr. Adams.

UNITED STATES CONSULATE,
Liverpool, March 18, 1864.

SIR: Eleven o'clock to-day was the hour to which the case against the pirates of the Joseph L. Garaty was last adjourned. I attended with Mr. Squarey. After waiting some time, Mr. Melly, who was presiding as magistrate, informed me that Mr. Raffles was on the grand jury, and had instructed him to call up the case, and to remand the prisoners for seven days longer to enable them to sue out a *habeas corpus*.

I told him Mr. Squarey, my legal adviser, was in the court, and that we should oppose this or any further continuance of the case. Mr. Squarey came up and informed the court that he should oppose any further adjournment of the case, and asked that the prisoners be at once delivered to the authority of the United States. The presiding magistrate said, if the continuance was to be opposed, he thought it best to send for Mr. Raffles, who had heard the case. After waiting from eleven o'clock until one, and

Mr. Raffles not coming, it was agreed that the matter should stand over until to-morrow.

The conduct of the stipendiary magistrate, before whom the case has been heard, is most extraordinary. On the day first fixed for hearing, myself and lawyer attended. When the prisoners appeared, Mr. Raffles, the magistrate, asked if they had a lawyer. They answered no. The policeman who stood next to them stated that they thought it not worth while to employ one. The magistrate suggested that they should be defended, and directed them to go down stairs with the women who were represented to be their wives, and talk about it. They all went down, and after remaining for some time, came up, attended by Mr. Cobb, a lawyer, who asked that the case might be continued until the next day. This was granted. On the next day the parties all appeared, the prisoners attended by their lawyer. The case was gone into, the evidence all taken, and the lawyer heard in argument, and the case submitted to the justice on both sides. It established a clear case of piracy without the least extenuation or justification.

This was three weeks ago. At the conclusion the magistrate stated that he should defer his decision for one week. I attended with my lawyer at the time. He then informed us that he had sent up the evidence to the home office and was waiting for instructions, which he had not received, and should be under the necessity of postponing the case for seven days longer.

This last adjournment was this day week. Mr. Wilding, the vice-consul, in my absence, and Mr. Squarey, attended. The magistrate then informed them that he wanted further information on the case, and would remand the prisoners seven days longer to give them an opportunity of producing evidence in proof of their statement that they were acting as confederates by confederate authority. He would not say what the legal effect of that evidence might be; it was for investigation when it was produced. As the case then stood upon the evidence before him, it was a clear case of piracy.

The last seven days are now up, no evidence is produced, and it is difficult to see upon what principle it could be introduced at this stage of the case, after the evidence has all been heard and the case submitted to the magistrate for his decision, without violating every principle upon which legal proceedings are conducted; and he now proposes to adjourn the case seven days longer to enable the prisoners to sue out a writ of *habeas corpus*. It must be remembered that there is no evidence whatever in the case to show that the prisoners are confederates, or that they were acting under confederate authority.

With high respect, I am, sir, your obedient servant,

THOMAS H. DUDLEY.

His Excellency CHARLES FRANCIS ADAMS.

Mr. Dudley to Mr. Adams.

UNITED STATES CONSULATE,
Liverpool, March 19, 1864.

SIR: Commencing where I left off yesterday, Mr. Squarey and myself attended court this morning. Mr. Cobb, the counsel for the prisoners in the case of the schooner Joseph L. Garaty, asked that the case should be postponed for seven days longer to enable them to sue out a writ of *habeas corpus*; stated that an affidavit had been already made and presented to Judge Wells for the writ. Mr. Squarey called the magistrate's attention to the treaty between the United States and Great Britain and the statute passed upon this subject; objected to any further postponement; stated that the case had been submitted on both sides, and that there was nothing left for the magistrate to do but to dismiss or commit the prisoners, reminding him that he had admitted, on the previous day, that the case as it stood was proved and was one of clear piracy. The magistrate (Mr. Raffles) said, in reply, that he should not take back or deny anything that he had said on a previous occasion; that the case was undoubtedly made out, but as it was of a serious nature, he should grant the application and adjourn the case for seven days, and after that continue to adjourn it from week to week, without argument, until the middle of the next term, to give the prisoners an opportunity to have it heard by a full bench on *habeas corpus*, and that before finally committing the prisoners he would give their counsel a week's notice.

Yesterday, as appears by the newspapers, they made an application for a writ. I inclose you a slip cut from the Daily Post of this morning. I have directed Mr. Squarey to retain counsel in the case.

I am, sir, your obedient servant,

THOMAS H. DUDLEY.

HON. CHARLES FRANCIS ADAMS,
United States Minister, &c., &c., &c.

[For slip taken from the Post see appendix at the end of this subdivision, p. 379.]

Earl Russell to Mr. Adams.

FOREIGN OFFICE, March 21, 1864.

SIR: I have the honor to acknowledge the receipt of your letter of this day's date, inclosing copies of two letters from the United States consul at Liverpool respecting the proceedings of the police magistrate at that port in regard to the persons whose extradition has been demanded in the case of the Joseph L. Garaty, and I have the honor to state to you that I have lost no time in forwarding your representation to the proper department of her Majesty's government.

I have the honor to be, with the highest consideration, sir, your most obedient, humble servant,

RUSSELL.

CHARLES FRANCIS ADAMS, Esq., &c., &c., &c.

Mr. Adams to Mr. Seward.

No. 657.]

LEGATION OF THE UNITED STATES,
London, April 14, 1864.

SIR: In connection with my dispatch No. 643, of the 8th of April, I now have the honor to transmit a copy of a note of Lord Russell's to me, dated the same day, in answer to mine of the 21st of March, on the subject of the delay in the proceedings at Liverpool for the extradition of the pirates of the Joseph L. Garaty.

It would appear from this that the postponements are made under authority from the government. No doubt proper commissions from Richmond will be made and forwarded in season to effect their release.

I have the honor to be, sir, your obedient servant,

CHARLES FRANCIS ADAMS.

HON. WILLIAM H. SEWARD,
Secretary of State.

Earl Russell to Mr. Adams.

FOREIGN OFFICE, April 8, 1864.

SIR: With reference to my letter of the 21st ultimo, I have the honor to state to you that I am informed by the secretary, Sir George Grey, that the circumstances connected with the alleged case of piracy on board the Joseph L. Garaty having been brought by the magistrate at Liverpool, before whom the case was heard, to Sir George Grey's notice, he had thought it right to consult the proper law officers of the Crown thereupon; and that he had been advised that, having regard to the nature of the allegations made by the prisoners, they ought to have the opportunity of proving, if they are able to do so, that they acted under authority, and that they should, if they require it, be remanded a sufficient time for that purpose.

I have further to observe, that if (as appears to be the fact) the magistrate is of opinion that sufficient time ought to be granted to enable the prisoners to apply for their discharge upon *habeas corpus* to a supreme court, the peculiar circumstances of this case, and the importance of the consequences which it may involve, seem to be such as justify him in taking that course. I am unable, therefore, to admit the justice of the complaint of the magistrate's proceedings contained in your letter; nor would her Majesty's government consider the exercise of similar care and circumspection by any magistrate of the United States, in the case of a like demand by her Majesty for the extradition from the United States of persons charged with a capital offense, as at all opposed to the letter or spirit of the treaty between the two countries.

I have the honor to be, with the highest consideration, sir, your most obedient, humble servant,

RUSSELL.

CHARLES FRANCIS ADAMS, Esq., &c., &c., &c.

Lord Lyons to Mr. Seward.

WASHINGTON, April 22, 1864.

SIR: With reference to your note of the 16th January last, and to my answer of the 16th of the same month, I have the honor to inform you that the schooner J. L. Garaty

has been made over to the commercial agent of the United States at Belize. I inclose a copy of a letter on the subject which has been addressed by that functionary to the administration of the government of the colony.

I have the honor to be, with the highest consideration, sir, your most obedient, humble servant,

LYONS.

HON. WILLIAM H. SEWARD, *fr.*, *fr.*, *fr.*

Mr. C. A. Leas to the officer administering the government of the colony.

UNITED STATES COMMERCIAL AGENCY,
Belize, February 12, 1864.

SIR: I have the honor to acknowledge the receipt of your excellency's note of yesterday, informing me that, in accordance with a decision of the government of Jamaica, the authorities of this place are advised to transfer the schooner Eureka to the agent of the United States at Belize, and requesting me to take such measures as may be deemed necessary for the safe-keeping and final disposal of the said vessel.

In answer, I have the honor to inform your excellency that I accept, in the name of the government of the United States, the charge of the schooner Eureka, and, in accordance with the verbal permission given by your excellency yesterday, I have entered into an arrangement with Mr. Cunningham, the inspector of police, (unofficial on his part,) to continue a surveillance over the vessel as heretofore, and also the two men as guards or watchmen, the expense to be paid by the agency.

I beg also to request that the authorities will be pleased to furnish me with an account for expenses of guarding and watching the vessel to this date, and also of any outlays on the part of the colonial government in the effort to arrest the parties, Hogg and Brown.

And I beg, furthermore, to express to your excellency my high gratification and appreciation for the great energy, activity, and promptness on the part of the authorities of this place in the effort to bring to justice the parties who took forcible possession of the Eureka on the high seas, and also the trouble which has been taken to guard and protect the property after capture, as well as the discretionary power with which her Majesty's government has been pleased to vest the governor of Jamaica, by virtue of which much time and expense have been saved in the final disposition of this case; and I feel convinced that the government of the United States will not fail to fully and amply enter into the same measure of appreciation and gratification.

C. A. LEAS,
United States Commercial Agent.

The OFFICER administering the Government.

Mr. Adams to Mr. Seward.

[Extract.]

No. 672.]

LEGATION OF THE UNITED STATES,
London, April 28, 1864.

SIR:

In the same newspaper [London Times, April 26,] will be found a report of the proceedings in the case of the pirates who seized the Joseph L. Garaty. The question involved in it bids fair to assume rather large dimensions. Mr. Everts, who is still here, will probably make a special report to you on that subject. Hence I shall not enlarge upon it.

I have the honor to be, sir, your obedient servant,

CHARLES FRANCIS ADAMS.

HON. WILLIAM H. SEWARD,
Secretary of State.

[For judicial proceedings see appendix at the end of this subdivision, p. 381.]

Mr. Seward to Mr. Adams.

No. 932.]

DEPARTMENT OF STATE,
Washington, May 3, 1864.

SIR: Your dispatch of the 14th of April, No. 657, has been received. It shows that her Majesty's government have taken cognizance of the proceedings before the magis-

trate of Liverpool in the case of the pirates of the J. L. Garaty with a view to advise concerning the ultimate decision in the case.

I have already intimated to you that this government has quite clear convictions of its rights under the treaty. These views will be submitted without considerable delay.

I am, sir, your obedient servant,

CHARLES FRANCIS ADAMS, Esq., *&c.*, *&c.*, *&c.*

WILLIAM H. SEWARD.

Mr. Seward to Lord Lyons.

DEPARTMENT OF STATE,
Washington, May 5, 1864.

MY LORD: I have the honor to acknowledge with much satisfaction the receipt of your communication of the 22d ultimo, relative to the case of the schooner J. L. Garaty, or Eureka.

Thanking your lordship for the information it contains, I have the honor to be, with high consideration, my lord, your obedient servant,

WILLIAM H. SEWARD.

Right Hon. LORD LYONS, *&c.*, *&c.*, *&c.*

Mr. Dudley to Mr. Seward.

No. 276.]

UNITED STATES CONSULATE,
Liverpool, May 11, 1864.

SIR: I attended the Court of Queen's Bench, on Monday last, at Westminster Hall, to hear the argument for a writ of *habeas corpus* to bring up the pirates in the case of the Joseph L. Garaty. The United States were represented by three barristers: Mr. Lush, Mr. Millward, and Mr. Lushington. I had a full report of the proceedings taken, which will be sent as soon as it is written out. I inclose you herewith two copies of the case, cut from the London Times of yesterday. After argument, the court made the rule for the writ absolute, but reserved all questions until they have all the parties before them. While this is the decision, by referring to the proceedings you will see they have almost, if not quite, determined the case against us already, upon the ground that piracy is an offense against the laws of nations, and can be tried in any country where the offenders are found; that therefore there was no necessity to include piracy as defined in the books in the treaty, consequently it cannot be supposed that the framers of the treaty ever intended to include it, and the use of the word there means something else. In other words, that the term piracy in the treaty does not mean piracy, but something outside which is not piracy, but called by somebody or statute by that name. To relieve themselves of the difficulty they assume (for they have no proof before them) that the laws of the United States have made certain offenses piracy which were not so by the law of nations, and then adjudge that the treaty was made for these exceptional cases alone.

The well-known and established rule in the construction of statutes, &c., that where a word or expression is used that has a fixed or technical meaning, and there is nothing in the statute to control or qualify its meaning, that then you are to give it the well-known or technical meaning, seems in this case as if it were to be entirely disregarded. I infer from what they said that they intend to apply an entire different rule in the interpretation or construction of this treaty, and thereby nullify one of its plainest provisions, and open a door wide enough for the courts of both countries to render this part of the treaty inoperative and void. You will recollect that they have a statute here which authorizes them to try a British subject for an offense committed in a foreign country. And the same course of reasoning would apply with equal force to a case of murder committed in the United States or any other country, by an Englishman. They could say just as well that he can be tried in their own country; that therefore it cannot be supposed the framers of the treaty ever contemplated that it should be included, and refuse to surrender him. I shall await the final decision with some curiosity.

I am, sir, your obedient servant,

THOMAS H. DUDLEY.

Hon. WILLIAM H. SEWARD,
Secretary of State.

[For judicial proceedings see appendix at the end of this subdivision, p. 335.]

Mr. Adams to Mr. Seward.

No. 685.]

LEGATION OF THE UNITED STATES,
London, May 12, 1864.

SIR: I transmit herewith a copy of the London Times of the 10th instant, containing a report of the proceedings of the Court of Queen's Bench on the application for a writ of *Habeas corpus* on behalf of the pirates in the case of the Joseph L. Garaty. It is not unlikely that you may receive another from a special reporter engaged by Mr. Dudley, as he intimated to me his intention to employ one.

The questions involved in this case are not without difficulty, and the decision upon them, whatever it may be, must have an important bearing on the efficacy of the provision of the extradition treaty hereafter.

I have the honor to be, sir, your obedient servant,

CHARLES FRANCIS ADAMS.

HON. WILLIAM H. SEWARD,
Secretary of State.

[For judicial proceedings see appendix at the end of this subdivision, p. 385.]

Mr. Dudley to Mr. Seward.

No. 286.]

UNITED STATES CONSULATE,
Liverpool, May 25, 1864.

SIR: I have to inform you that I have just received from my attorney, Mr. Squarey, a telegram as follows:

"*Piracy case.*—Court divided; chief justice in our favor, the other three judges against us, on ground that piracy means piracy exclusively triable in America. Prisoners ordered to be discharged."

From what I observed of the disposition of the court when the rule was applied for, I was quite prepared for this extraordinary decision.

Very respectfully, I am, sir, your obedient servant,

THOMAS H. DUDLEY.

HON. WILLIAM H. SEWARD,
Secretary of State.

Mr. Adams to Mr. Seward.

No. 700.]

LEGATION OF THE UNITED STATES,
London, May 26, 1864.

SIR: I have the honor to transmit copies of the Times of the 25th and 26th instant, containing a report of the final proceedings in the Court of Queen's Bench on the application for the rendition of the pirates in case of the Joseph L. Garaty. As usual in the case of English law decisions, the result turns upon technical construction of language rather than on broad principles.

I have the honor to be, sir, your obedient servant,

CHARLES FRANCIS ADAMS.

HON. WILLIAM H. SEWARD,
Secretary of State.

[For judicial proceedings see appendix at the end of this subdivision, pp. 389, 396.]

Mr. Dudley to Mr. Seward.

No. 287.]

UNITED STATES CONSULATE,
Liverpool, May 27, 1864.

SIR: An indisposition, which has confined me to the house for the past week, prevented my being present at the argument in the case of the pirates of the schooner Joseph L. Garaty before the Queen's Bench on Tuesday and Wednesday last. My attorneys, Mr. Squarey, of Liverpool, and Messrs. Field, Roses & Co., of London, were present, and did everything that I could have done if personally present. The case was not prejudiced by my absence. I inclose you two copies of the case, as cut from

the Times of Wednesday and Thursday. I had it fully reported by a short-hand writer, and will send you his copy as soon as it is written out.

I am, sir, your obedient servant,

THOMAS H. DUDLEY.

Hon. WILLIAM H. SEWARD,
Secretary of State.

[For judicial proceedings see appendix at the end of this subdivision, pp. 389, 396.]

Mr. Dudley to Mr. Seward.

No. 299.]

UNITED STATES CONSULATE,
Liverpool, June 16, 1864.

SIR: I now have the honor to inclose you a copy of the short-hand reporter's notes of the judgment of the Court of Queen's Bench in the case of the pirates of the schooner Joseph L. Garaty. This is a correct report of what the judges said, and can be relied upon as such. I have not thought it worth the expense to have the arguments of the counsel on the final hearing written out, although I had the arguments as well as judgment reported. I can have it done if the department desires. From a perusal of the judgment you will see that it confirms all that I have said about it. The court decide that the treaty only applies to cases where the country claiming the offender has the exclusive jurisdiction over the offense alleged against him. In order to reach this conclusion it was necessary to determine that the word "piracy" mentioned in the treaty did not mean piracy, but something else which was not piracy, but which had been called piracy in some statute; and which statute, for what the court knew, might not be in existence at the time the decision was made. As Great Britain claims under her statutes to have jurisdiction in all cases of felony committed by any of her subjects without as well as within the kingdom, there would seem but little left for the treaty to act upon, at least so far as England is concerned. It becomes a one-sided affair. If an Englishman was to murder the President of the United States and make his escape to Canada or England he could not be claimed under this treaty; while an American citizen committing murder in Canada or England and escaping into the United States can be claimed, and under the treaty must be delivered up.

While these pirates have been discharged on the ground that the courts here have jurisdiction, and that they can be tried and punished here if guilty, they do not try them but turn them loose. The men are walking the streets of Liverpool. They have not been arrested or bound over to appear at court, or the first step taken to punish them. And I am informed that the authorities here do not intend to do anything with them.

I am, sir, very respectfully, your obedient servant,

THOMAS H. DUDLEY.

Hon. WILLIAM H. SEWARD,
Secretary of State.

[For judicial proceedings see appendix which follows, pp. 389, 396.]

APPENDIX.

TRIAL BEFORE THE POLICE COURT AT LIVERPOOL.

RE JAMES CLEMENTS, T. WILSON, DANIEL O'BRIEN, AND ——— KELLY, CHARGED WITH PIRACY.

Requisition of Secretary of State.

"To her Majesty's justices of the peace and other magistrates and officers of the peace in and for the borough of Liverpool, and to all other her Majesty's justices of the peace and other magistrates and officers of justice within the United Kingdom of Great Britain and Ireland:

"Whereas on the 15th day of February, 1864, in pursuance of a treaty between her Majesty and the United States of America made on the 9th day of August, 1842, and ratified on the 10th day of October, in the same year, and of an act of Parliament passed in the session holden in the sixth and seventh years of her Majesty's reign, intitled 'An act for giving effect to a treaty between her Majesty and the United States of America for the apprehension of certain offenders,' a requisition was made by Charles

Francis Adams, esq., the United States minister at this court, to deliver up to justice certain persons called or known by the names of James Clements, T. Wilson, Daniel O'Brien, and ——— Kelly, charged with the crime of piracy on board the schooner Joseph L. Garaty, of New York, within the jurisdiction of the United States of America, I, therefore, the Right Hon. Sir George Grey, Bart., one of her Majesty's principal secretaries of state, do hereby, in pursuance of the power and authority given to me as such secretary of state by the said act, require you, and all of you, within your several jurisdictions, to govern yourselves accordingly, and to aid and assist in apprehending the said James Clements, T. Wilson, Daniel O'Brien, and ——— Kelly, and committing them to gaol for the purpose of their being dealt with according to the provisions of the said treaty, and delivered up to justice, pursuant to the said act, if found to be within the same. In witness whereof I have hereunto set my hand and seal this 20th day of February, 1864.

"G. GREY."

Warrant of apprehension.

BOROUGH OF LIVERPOOL, to wit:

To the constables of the said borough, and to all peace officers for the said borough:

Whereas the right honorable Sir George Grey, one of her Majesty's principal secretaries of state, by a warrant under his hand and seal dated the 20th day of February, 1864, signified to me that pursuant to the treaty made between her Majesty and the United States of America in the year of our Lord 1842, and of an act of Parliament passed in a session holden in the sixth and seventh years of her Majesty's reign, entitled "An act for giving effect to a treaty between her Majesty and the United States of America for the apprehension of certain offenders," a requisition was made to deliver up to justice James Clements, T. Wilson, Daniel O'Brien, and ——— Kelly, charged with the crime of piracy on the high seas within the jurisdiction of the United States of America:

These are therefore to command you, in her Majesty's name, forthwith to apprehend the said James Clements, T. Wilson, Daniel O'Brien, and ——— Kelly, pursuant to the before-mentioned act of Parliament, wherever they may be found in England, and bring them before me or some other magistrate sitting at this court, to answer unto the said charge, for which this shall be your warrant.

Given under my hand and seal at the police court at Liverpool, in the borough aforesaid, this 23d day of February, in the year of our Lord 1864.

T. S. RAFFLES. [L. S.]

Evidence on which warrant to apprehend was granted.

BOROUGH OF LIVERPOOL, IN THE COUNTY OF LANCASTER, to wit:

The information of James Nicholas, taken on oath this 23d day of February, in the year of our Lord 1864, before me, one of her Majesty's justices of the peace in and for the said borough, who says as follows:

I am master mariner, and reside at present at 41 Islington, Liverpool.

On or about the 14th day of November last I was master of the American schooner Joseph L. Garaty, of New York, then lying at Matamoras. I was bound from there to New York. Before sailing, a number of men engaged passage from that port to New York. On the 16th of November last they came on board, and on the same day we sailed. The names of four of those men are James Clements, T. Wilson, Daniel O'Brien, and ——— Kelly. About half-past 12 o'clock on the morning of the 18th November last, Daniel O'Brien, T. Wilson, and ——— Kelly took hold of me, each by the neckerchief, and each of them pointed a revolver at my head, saying, "You are a dead man." There were two other men with them. They then took me down into the fore-castle, and one of them said, "You are now to consider yourself a confederate prisoner." They then went forward, leaving one of them to watch me. Shortly afterwards they brought all the crew in a similar manner into the fore-castle, except two boys whom they kept to steer the ship. I and the crew were kept in the fore-castle until the 29th day of November last, when we were within nine miles of Cape Catoche, in Yucatan, where we were put into a boat and sent adrift. I asked them for a cardinal compass, but they refused to give me anything. They still maintained possession of the ship, and sailed away in her. The owner of the ship was one Francis Garaty. He has since been drowned. When I and the crew were seized and confined as I have stated, the ship was upwards of fifty miles from land.

The man James Clements was acting with the others when they brought the rest of the crew into the fore-castle. James Clements afterwards, on one occasion, said to me, "You ought to consider yourself very lucky that you have fallen into our hands. If you had fallen into other hands they would have killed you."

When I was seized I considered my life in danger, and I was in bodily fear during all the time I was confined. I now pray for a warrant to apprehend those men on the charge of piracy, wherever they may be found in England.

J. NICHOLS.

Sworn before me.

T. S. RAFFLES.

Copy notes of the examination.

BOROUGH OF LIVERPOOL, IN THE COUNTY OF LANCASTER, to wit:

James Nicholas and others, taken on oath this 26th day of February, in the year of our Lord 1864, at Liverpool, in the borough aforesaid, before T. S. Raffles, esq., one of her Majesty's justices of the peace for the said borough, in the presence and hearing of Warren Quinsey, (or Wilson,) George McMurdoch, (or Kelly,) John Tevena, (or Clements,) who were charged this day before me with piracy.

This deponent, the said James Nicholas, on oath, saith as follows:

I was captain of the American schooner Jos. L. Garaty, belonging to New York. I was at Matamoras in November last with the schooner. I remember on the 16th November last some passengers coming on board at 12 o'clock noon. They had engaged their passage on shore. We were bound for New York with a cargo of cotton. We sailed at half-past 3 o'clock on the same day. On the night of the 17th November last I went to bed at 8 o'clock. I went below to try and sleep, but could not. I came on deck about 11 o'clock, and did not go to bed after that. At half-past 11 o'clock we hauled the flying jib down. The six passengers were on deck then, including the three prisoners. At 12 o'clock at night the watch was relieved and went below. I sent one George Sweeney up aloft. He was up a long time. About half-past 12 o'clock I went into the gangway to keep a lookout. When I got there a person named Brown took hold of me. The three prisoners were on the other side then. I struggled with Brown to free myself, and then the prisoners Wilson, and Kelly, and one O'Brien, (not here,) took hold of me, each pointing a revolver at my head, saying, "If you shout, you will be a dead man." They put me into the fore-castle and put a sentry there, and told me if I made an attempt to go out they would shoot me. It was Brown that said this. It was Kelly that kept sentry first. The next thing was the man that was up aloft came down wounded on his head by O'Brien, Kelly, and Wilson. He was left with me. After that I heard a shot, and then they brought the mate to me. They all brought him, except Brown and Hogg. Kelly and Wilson were among them. The mate was placed with me and the other man. It would be about a quarter to 1. It all happened in about half an hour. In two or three days afterwards I had a conversation with Clements. He said that I might be glad that I did not fall into other hands. If I had fallen into the hands of others in Matamoras who were waiting for the same chance, they would have killed me. Wilson was managing the ship during the time. Hogg and Brown, and then Wilson, navigated the ship. I was allowed to walk the deck occasionally by them. I was kept in confinement until the 25th of November.

I should have said that on the morning of the 18th they called me aft to get breakfast, and I asked the steward for a cup of coffee; Hogg told me he had proper documents to justify the act he had done. The prisoners heard him say that; I asked him for them, but he did not show them to me. They never showed me any authority at all.

On the 25th November they called me aft about 12 o'clock, and told me there was a boat ready and I was to go away in her. Before putting me into the boat I was brought before Hogg and Brown; neither of the prisoners were present then but Wilson. Hogg demanded a paper, signed by the American consul, that our cargo was American cotton, to show any cruisers they might fall in with; I told him I had no such paper; he told me if I deceived him he would put ten or eleven shackles of chain around my neck and throw me overboard. Wilson heard Hogg say this. I had not the paper they wanted; they had possession of all the ship's papers. We were put into the boat close to Cape Catuche; I asked them for a chart and a compass, but it was refused; it was Hogg that refused. The prisoners were three or four feet off then; I spoke loud enough for them to hear me. I was sent adrift and put about for seven days; they gave me provisions for about three days; we landed on the coast of Yucatan, in Mexico; I have not seen the vessel since.

The large box produced is mine. It was on board the schooner when I left her. The small chart produced, and the sextant, and the case and book produced are mine; also the log-slate produced. They were on board the vessel when I left her. (By Mr. Cobb.) I am quite sure they are all my property. When I was taken to the fore-castle, it was by Brown, Wilson, Kelly, and O'Brien. I know Kelly kept sentry, because I could hear his voice. I am sure the prisoner Tevena is the same person as Clements, and that it was he who said I should be thankful I had fallen into her hands. I was on deck at one time for about three or three and a half hours, at longest. After this

occurrence I was only let out every other day. Wilson was navigating the ship then. I heard Wilson give the orders to the crew. We had six of a crew, and six of passengers. I have heard that Mr. Hogg was a major in the confederate army. I believe from his appearance that he was. I don't know who paid the passage for these prisoners. I received no money. Major Hogg was the leader of the party. He never showed me any papers. The prisoners appeared to be acting under his orders. Hogg first mentioned about the papers. When I asked for the papers I forget what he said. I never saw any papers at all. Hogg came on board at the same time as the prisoners, and they appeared to be acting entirely under his orders. I may have had a conversation with Hogg respecting Jefferson Davis, but he never showed me any letters of marque. We were about fifty or sixty miles from the confederate army waters on the 18th of November, when this happened. I know I was in 26° 12' when I was taken hold of. Greenhough, my supercargo, did not show me any documents that were given to him by Hogg.

And this deponent, the said Charles Carlisle, on oath saith as follows: I am detective police constable of this borough. I apprehended the prisoner Wilson at his lodgings. I found there the books produced, and also the sextant; at his aunt's I found the box produced. He said "that is my chest; I bought it in China." I found the charts produced in his bedroom. He said "these are my charts." He claimed all except the small chart produced. He said he had bought the sextant in New York. When I apprehended him, I told him I was taking him by warrant, under the order of the secretary of state, for piracy. He said "I don't know what you are talking about." I said "I believe your name is Wilson." He said "that is not my name." He said his name was Warren Quinsey. He said "I got married in that name three weeks ago." At the police office the captain picked him out from among twelve others. Kelly, or George McMurdoch, said, when I apprehended him, "I don't know what you are talking about; I am not the man; you are mistaken; my name is George McMurdoch." I said "the warrant charges you in the name of Kelly." He said "that's not my name." The other prisoner said his name was George Tavina. He was placed amongst some others, and the captain picked him out. He said "my name on board the ship was Clements; the other two prisoners you have got in custody were also passengers on board; we were engaged by a Major Hogg of the confederate army. We were served with six-barreled revolvers each to go on board as passengers, and to take the ship and the cargo, and to send the captain adrift. Major Hogg showed me documents signed by a General Bee, saying they were granted by Jefferson Davis to justify us in doing what we have done.

And this deponent, the said Nelson Lees, on oath saith as follows: I am police constable ninety, of Liverpool. I was with Carlisle when the prisoners were apprehended. I saw Wilson give the key of a box to Carlisle, and it opened the box which the captain claims, and in which were the articles which he claims. When Wilson was first apprehended I heard him say, "I have only done what has been done to myself; a ship was taken from me, and I had to walk one hundred miles on land."

And this deponent, the said James Rushton, on oath saith as follows: I am an eating-house keeper, and live at No. 39 Park Lane. I know Clements and Wilson, and I have seen the prisoner Kelly once. I have lately had a conversation with Wilson, about three weeks ago. He passed under the name of Sayers. On that occasion he was talking to me about Africa, and what he had been doing in the slave trade. He said that he was captured about six years ago with eight hundred slaves on board when he had been two days out. That he was tried in America, and sentenced to be hung, and was in Fort Lafayette and got out. He then talked of his schooner; that he was captain of a fine cotton schooner, and had sold her in Belize, and had come to England to spend the money.

By Mr. Cobb: This conversation took place in my dining-room about three weeks ago, the day he was married. I remember the conversation distinctly.

[From the Liverpool Courier, February 27, 1864.]

CHARGE OF PIRACY BY CONFEDERATES—AN EXTRAORDINARY MARITIME ADVENTURE.

The three men, Warren Quinsey, *alias* Thomas Wilson, George P. McMurdoch, *alias* Kelly, and John Tavena, *alias* Clements, remanded on the previous day on a charge of piracy, were again brought up at the police court yesterday, before Mr. T. S. Raffles, the stipendiary magistrate. Mr. Dudley, the United States consul, was on the bench with his worship. Mr. Squarey, of the firm of Duncan, Squarey & Blackmore, again appeared for the prosecution, and Mr. Cobb for the defense.

Mr. Squarey, in opening the case, said that he appeared on behalf of the government

of the United States, under the instructions of the United States consul at this port, in a case of the greatest importance; and he had to ask his worship, under the provisions of the 6th and 7th Vic., or the extradition act, to send the men who were then before him to the United States to take their trial in that country upon a charge of piracy. He thought that when his worship had heard the circumstances which would be brought before him he would say that the men should be so sent. The circumstances were briefly these: In November last the schooner Joseph L. Garaty, an American vessel, belonging to the port of New York, was at Matamoras, loaded with cotton and about to sail for New York. On the 16th of November six persons, of whom he should show that the prisoners at the bar were three, came on board the vessel as passengers. The vessel sailed the same day, and nothing of any importance occurred until the following day or night, or rather morning of the 18th, it being shortly after midnight on the 17th November. About that time, the weather being somewhat threatening, Captain Nicholas was on deck. The watch had been relieved, the men had gone below, and Captain Nicholas took charge of the deck. In that state of things, about half-past twelve on the morning of the 18th, the captain was walking to and fro on the deck, when a man named Brown, not in custody, seized him by the arm, and as the captain struggled to shake Brown off, others of the passengers, among whom was a man named Kelly, who now gave his name as M'Murdoch, John Clements, who now gave his name as Tavena, Thomas Wilson, who now gave his name as Warren Quincey, and another man not in custody, named O'Brien, came to the assistance of the man who had first seized the captain. One of them held a revolver to the captain and told him that if he spoke he was "a dead man." The captain was then taken to the forecabin of the schooner and shut up, and one of the passengers was placed as a sentinel. Some time afterwards a boy belonging to the ship came on deck from aloft, where he had been engaged at some work, when he was seized by one of the men and struck on the head. He was stunned and taken to the forecabin. The mate, hearing the disturbance on deck, came up the ladder, when he was met by one of the men, who would not allow him up. The mate then went to the berth of a young man named Greenough, a supercargo, and again attempted to go up the ladder, when he was met by the man Clements, who fired a shot at him through the skylight. The mate was then seized and fastened up in the forecabin. The men were thus in complete possession of the ship. The captain and a portion of the crew were kept in the forecabin in close confinement, occasionally being allowed to take a little exercise on deck. On the 25th, the captain and crew were put in one of the ship's boats and sent adrift, and the captain was refused some nautical instruments. After being at sea for about seven days they made the land in Yucatan, at a place called Sisel, from which place the crew were sent to New York. After communicating with the authorities, the captain went to Havana, after sending communications to the various places on the coast, stating what had occurred. In the month of January it was found that the vessel had turned up at Belize, where the cargo of cotton, or a considerable portion of it, was sold by one of the prisoners at the bar. The name had been changed to the Eureka, but the old name had not been so entirely painted out as to be effaced. Communication took place between the captain and the British authorities in Belize, which resulted in the publishing of handbills offering a reward of five hundred dollars for the apprehension of the men who had brought the vessel there. In consequence of this the men left the vessel at Belize, and some of them came to this country. The captain ascertained what had occurred, and also came to this country. On information supplied to the government a warrant was issued, and the men were now before his worship. He (Mr. Squarey) had to add to that statement that certain articles had been found in this town in the possession of friends of the man named Wilson. Among these was a chest which, he believed, Wilson said he bought in China. There was also a sextant which he said he had bought in New York. He (Mr. Squarey) should prove clearly and undoubtedly that the articles were the property of the captain of the schooner Joseph L. Garaty. Under these circumstances he did not think a clearer case of piracy was ever brought before a court of justice. He believed that an attempt would be made on the part of the prisoners to show that they were confederates, and that they were acting under some authority. Now, sir, (Mr. Squarey continued,) we have no evidence of this. I shall urge upon you that, inasmuch as you have nothing but the bare statement of these men, they shall be sent where they can be legally tried for the offense, and that that question must be there discussed and decided. It is obvious that if their statement is to exonerate these persons from the legal consequences of that act, which is one of the most serious which can be committed, it is obvious if that can be done there will be danger of a repetition of these offenses. Allow me to remark that there is no evidence before you that these men were ever engaged in the naval or military service of the Confederate States, and that this is a vessel sailing from a neutral port—the port of Matamoras. These men took passages as private individuals, and one of them, Clements, on his own confession, is a Liverpool man. It is also well to bear in mind that property is now produced, claimed by one of these men as his own property, under circumstances which I will prove to be false. I shall also prove to you that a conversation took place between

Wilson and a party in Liverpool in which he said that he had been the master and owner of a fine cotton schooner, which he had taken into Belize and sold there. Mr. Squarey concluded by urging that the men must be sent, under the provision of the act to which he had referred, to take their trial in the United States. He then called James Nicholas, the captain of the schooner Joseph L. Garaty. His evidence contained very little beyond what was in Mr. Squarey's statement. He said that the first person put sentry over him at the forecabin was Kelly, but the sentinels were relieved at intervals. The man who had been left aloft was brought into the forecabin wounded in the head. He heard a shot fired, and soon after the mate was brought in. It was about one o'clock when the mate was brought into the forecabin, the whole affair happening within about half an hour. Two or three days after he had a conversation with Clements, who told witness that he might feel glad he had fallen into their hands, and not into those of some other parties, who were watching for him at Matamoros, as they would have killed him. A man named Hogg was the leader, Brown was second, and then Wilson, who navigated the ship. Hogg told witness that he had authority for what he had done, but he refused to show witness the documents. About twelve o'clock on the 25th they called him, and said, "There is the boat." Witness was taken into the cabin before Hogg, who was talking to Brown, Wilson being also present. Hogg demanded of witness some papers to show the cruisers, if he fell in with any, that it was American cotton on board. Witness told him that he had none, when Hogg replied that if he deceived him he would put ten or twelve shackles of chain round his neck and throw him overboard. The men had possession of the ship and her papers. They were then put into a boat—witness, the crew, and Mr. Greenough. Witness asked them for a chart or compass, but they refused to give them. They were then set adrift, and were in the boat for about seven days, though they had only received provisions for three days. They ultimately landed on the coast of Yucatan. He had not seen the vessel since, nor had he been to Belize. [Inspector Carlisle was then called, and produced a number of articles which he had found in possession of the prisoners.] These articles Captain Nicholas, on being recalled, identified as his property which had been on board the schooner. In cross-examination by Mr. Cobb, Captain Nicholas said that he was taken to the forecabin by Brown, Wilson, Kelly, and O'Brien. He was on deck for three hours every other day. Wilson was navigating the ship. Witness did not know that Hogg was a major in the confederate army, but he was told that he was, and believed it from Hogg's appearance. The other men acted under Hogg's orders. He did not know who paid their passage money. By Mr. Raffles: Hogg never showed me any papers. Hogg first mentioned about the papers. I don't recollect what answer he gave me when I asked him to show me the papers. By Mr. Cobb: Hogg appeared to be the ringleader all the way through. I had a conversation with Hogg about President Davis, but he did not show me letters of marque. We were not in confederate waters. Greenough did not show me any papers which had been given to him by Hogg.

Detective Carlisle, recalled, said that when he apprehended Wilson and told him the charge, he replied, "I don't know what you are talking about." He said that Wilson was not his name, but that it was Warren Quincey, and that he had got married in that name three weeks ago. At the police office the captain picked him out from among twelve others. When M'Murdoch was taken up he replied in a similar way to Wilson. When Tavena was apprehended he said that his name on board the ship was Clements. The other two prisoners, he said, were also passengers on board. He also said, "We were engaged by Major Hogg and Captain Wilson, of the confederate army, and we were served with six-barreled revolvers to go on board and take the ship and cargo, and send the captain adrift. Major Hogg showed me documents signed by General Bee, saying that they were granted by Jefferson Davis, and justified them in what they had done."

Detective Nelson Lees, who was with Carlisle, stated that Clements also said, "I have only done what has been done to myself. A ship was taken from me, and I had to walk one hundred miles overland."

James Rushton, an eating-house keeper, in Park lane, said that in a conversation about Africa with Wilson, who had before passed under the name of Sayers, Wilson said that he had been engaged in the slave trade; that he had been captured with six hundred slaves on board, and that he was tried in America and sentenced to be hung. He also told witness that he was captain of a fine cotton schooner, which he had sold at Belize, and that he had come to England to spend the money.

This being the whole of the evidence for the prosecution, Mr. Cobb addressed the court for the defense. He said, Are they pirates? I take it that a pirate is a man that acknowledges no government, acknowledges no rights of persons, and a man who plunders and pilfers on the high seas. A mere rover—roving about from port to port without any avocation whatever, acknowledging no one whatever. Pirates are persons who support themselves by pilfering, plundering, and such like acts. What evidence have we that these men are such like? Undoubtedly these men were taken on board this vessel by the party who no doubt was an officer in the confederate army. You have it from the captain that these men acted entirely under his control. Whatever

he told them to do they did it, and the captain had no reason to doubt that he was a major in the confederate army. From his appearance the captain believed he was. Therefore, I say, that as regards the charge of piracy, it has not been made out in any shape or way whatever; and if they are not pirates, then there is an end of the case. The men were acting under the orders of confederate officers, and they were in confederate waters.

Mr. Raffles said: This is a case of grave importance, and I must not give a hasty decision. I shall remand the case for seven days, and, in the meantime, I shall take such steps as are best calculated in my judgment to aid me in arriving at a right conclusion.

[Phonographic report of the trial before the police court, February 26, 1864.]

James Nicholas, master mariner, deposed: I was captain of the schooner J. L. Garaty; I was at Matamoras with the schooner; I remember the 16th of November; I was bound for New York with a cargo of cotton; I sailed about half-past three; I went below; I was uneasy and could not sleep; the weather was rough; I came on deck at eleven o'clock and I did not go to bed after that; I continued to feel uneasy in my mind; at about half-past eleven we hauled the flying-jib down. There were then three or four of the passengers on deck at that time. At twelve the watch was relieved and I went below. I was still uneasy, and directed the watch to keep a look-out if there were any ships in sight. Then a person, Brown, seized hold of me. (To Mr. Raffles:) The prisoners in the dock at that time were just a little over from us. (Examination resumed:) I struggled with him for some time, when the three others came to Brown's assistance. Those three are named Wilson, Kelly, and O'Brien, who is not here now. They held me, and one said, "Give the least shout and you are a dead man." They then took me to the forecabin and placed me in it, and appointed one of their number to watch over me, and if I made any attempt to come out, Brown said, to shoot me. Kelly was the first appointed to watch over me, and the others relieved him in turn. The next thing was the boy. He was aloft, and when he came down he was taken and left with me in the forecabin. The next thing was a shot which I heard fired; it was at my mate. Then they brought my mate, who is not here. (To Mr. Raffles:) He is in the United States, sir. (Direct examination resumed:) It was about a quarter to one when my mate was brought. All was done inside a half an hour. I had some conversation with Clements during the seven days I was kept a prisoner. It was two or three days after they seized the vessel. He said that "I might be glad that we had not fallen into the hands of other parties, for if we had fallen into other hands fighting for the same cause and on the look-out, they would have taken all our lives. Wilson was managing the ship at this time, with assistance. I was not kept in the forecabin always. I was allowed on deck occasionally. I was kept in confinement until the 25th November, from the 16th. Then I was called up aft, and Hogg asked me to have some breakfast. I could eat nothing, and I declined. Hogg told me he had authority for what he had done. He said he had the proper documents. He never showed any authority whatever. On the 26th they called me up about twelve o'clock, and told me there was a boat, and that I might leave. They demanded the ship's papers from me. Wilson was there. They demanded the paper signed by the consul testifying that it was American cotton. I had the paper to show to any of the cruisers if I fell in with any of them. He said that if I deceived them he would put eleven or twelve shackles of iron around my neck and throw me over. I had not the papers in my possession. They had possession of all the ship's papers, having seized them along with everything else on board. I was put into the boat with the supercargo and the boy at Cape Galecho. I asked for nautical instruments, charts, and compass. They were refused to me. We were then sent adrift in the boat. They gave us provisions for three days, and we were on the sea in the boat for seven days. I have not seen the vessel since.

Detective Inspector Carlisle deposed: I apprehended Wilson in his lodgings, in this town. I found these books (books produced) in a bundle, in a cupboard. I went to the house of his mother-in-law, where I found this box, (box produced.) I showed the box to Wilson, and he said: "That is my box. I bought it in China." I showed him these charts, (charts produced.) He said: "Those are my charts." He afterward said: "The small chart is not mine."

Captain Nicholas re-examined: I see this box—it is my property. It was on board the schooner, and was not taken away by me. These charts belong to the J. L. Garaty. This log, alate, &c., belong to the ship. (To Mr. Cobb:) I was allowed on deck every other day, for exercise, and I remained about three hours and a half up. I saw Wilson guiding the ship. I did not know that Hogg was a major in the confederate army. I was told that. O'Brien told me so. I know nothing about whether his statement was true or not. I believed by his appearance that he was a major in the confederate service. I received no money for the pas-

sage of these men. My predecessor in command of the schooner brought them on board. (To Mr. Raffles:) When I say Hogg, I believe, was an officer in the confederate army, I mean that I judged by his appearance only. I do not know if they were all acting under Hogg's orders. (To Mr. Cobb:) I suppose all the orders came from him. (To Mr. Raffles:) Hogg never showed me any papers. He told me he had good authority. I asked Hogg for papers, to show them to me. He did not do so. I can't just remember what answer he made me, but he did not show me any papers of authority for seizing the vessel. (To Mr. Cobb:) Matamoras is not in confederate waters. Hogg came on board same time as these men, (the prisoners.) I had a conversation with Hogg respecting President Davis. Hogg did not show me letters of marque. I can't say, exactly, how far I was from confederate waters on the 15th November, but we were a good distance, about fifty or sixty miles. When I was locked in the cabin I was not in confederate waters. I know the name of the supercargo I had on board. He did not show me any papers he got from Hogg.

Inspector Carlisle recalled: I apprehended Wilson. I cautioned him. I told him the charge, and that I arrested him on a warrant granted by your worship on the order of the government. I told him he was charged with piracy. He said: "I don't know what you're talking about." I said: "I believe your name is Wilson?" He said: "That is not my name." He then told me his name was Warreant. I brought him to the police office, and the captain picked him out from twelve others. I arrested the second prisoner, (pointing out one of the men in the dock.) When I apprehended him and told him the charge, he said, "I don't know what you are talking about; I am not the man; you are mistaken; my name is George McMurren." I said: "The charge is on the name of Kelly." He said: "That is not my name." The captain at once identified him. The third prisoner gave the name of Tanner. He was along with twelve other men when the captain identified. He said: "My name on board was Clements. The other two prisoners you have got in custody were also passengers on board. We were engaged by Major Hogg, of the confederate army, and Captain Wilson, of the same service. We were served with six-barreled revolvers, to take the ship and cargo and send the captain adrift. Major Hogg showed me documents signed by General Bell, saying that they were granted by Jefferson Davis, and that they justified them in what they had done. That is all, sir."

Detective Lees deposed: I was there when Inspector Carlisle arrested the prisoners. I found the lock (produced) on the box when I was going up stairs to apprehend one of the prisoners, (points out the second prisoner.) A female shouted out, "there is a party going up stairs." He then came down and he said: "I have only been doing what was done to myself. A ship was taken from me, and I had to walk one hundred miles on land."

James Rutch, eating-house keeper, deposed: I live at No. 9 Park lane. I have lately had a conversation with Wilson, when, three weeks ago, he passed by the name of Sayres. He gave me a history of his life, and in doing so he spoke about Africa and the slave trade. He said he had been the captain of a slaver. He said he had been only two days out when he was captured. He said he was tried and sentenced to be hung. He said he was captain and owner of a fine cotton schooner which he had sold, cargo and all, at Belize, and that he came to England to spend the money.

[Extract from the Liverpool Daily Post, March 19, 1864.]

Extraordinary charge of piracy.

Mr. Littler applied to his lordship for a writ of *habeas corpus* to bring up the three prisoners, who were remanded by Mr. Raffles, on a charge of piracy on board the Joseph L. Garaty, before his lordship, for hearing the case or for dismissal. After stating the facts of the case, the learned counsel said that he quite understood the difficulty attending such an application, inasmuch as the persons were under remand, and were not committed; but he believed that they had been remanded from week to week for five times, in order that his lordship's opinion might be taken.

His lordship said that he did not think that the application was a proper one for him to receive, inasmuch as it was foreign to the business which he had before him; the proper quarter in which to apply was the learned judge who was now sitting in chambers for the purpose of receiving such applications. A conversation ensued between his lordship and the learned counsel upon this point, and ultimately his lordship consented to take the affidavits and the act of Parliament for perusal, and if he still thought that he should not grant the *habeas corpus*, he would not do so before hearing Mr. Littler upon the point, but it would not be in the public court. The court then rose.

LIVERPOOL POLICE COURT, MARCH 19.—(Before Mr. Raffles.)

THE JOSEPH L. GARATY PIRACY CASE.

The prisoners were brought up on remand from yesterday.

Mr. Cobb said: Your worship, in this case I appear on behalf of only two of the prisoners, and I apply to the court for a remand for one week. Counsel has been instructed on affidavit to apply for a *habeas corpus*, and I believe the case was mentioned yesterday in the Crown court, St. George's Hall, by Mr. Littler, but his lordship did not come to any decision. However, the matter is to be mentioned again in private, and now I have to ask your worship to grant a remand for such a length of time as it may take to procure the decision.

Mr. RAFFLES. And you, Mr. Copeland, I suppose, make a similar application?

Mr. COPELAND. I do, your worship; it is all the same whether Mr. Cobb or I make the application.

Mr. SQUAREY. I am instructed, sir, to oppose any further remand in this case. It will be in your recollection that when the case was first brought up, I believe on the 24th February, evidence was then gone into, and the case was remanded. There have been other remands since, the object being, as I understood—indeed there is no doubt of it—to give the prisoners an opportunity of producing any further evidence. Now, sir, we have not heard of any additional evidence being forthcoming; indeed, I believe there is none. I believe, also, that you, yourself—indeed you have so told us—said that on the evidence placed before the court there is a case of piracy. I am here, sir, as the humble representative of the United States government, asking you, as a magistrate of this country, to put in force the provisions of an act of Parliament founded on a treaty between this country and the United States, a country with which we are happily on terms of friendship. I confess, sir, that I am at a loss to know why there should be a further remand. It cannot be said the prisoners have not had an opportunity of establishing before you any case which they can possibly make out with a view to alter the color of the matter as it now stands. Under these circumstances, I know nothing about the application for a writ of *habeas corpus*, or the object of it. I am instructed, on behalf of the United States government, respectfully but firmly to ask you to carry out the provisions of this act of Parliament, and commit these men, because I apprehend, sir, the only function you have to discharge is to commit them to prison.

Mr. RAFFLES. The function is to commit them or discharge them.

Mr. SQUAREY. Then, if you commit them it becomes necessary for the United States government to apply to one of her Majesty's secretaries of state to have them sent to America. I take it that it is optional with the secretary of state to do that or not.

Mr. RAFFLES. I am not so sure about that.

Mr. SQUAREY. I so read the act of Parliament, and apprehend your function is to hear this matter. The machinery having been properly put in motion, and upon such evidence as according to the laws of that part of her Majesty's dominions would justify the apprehension and committal for trial of the person so accused of the crime of which he or they shall be so accused, it shall be lawful for such justice of the peace, or other person having power to commit as aforesaid, to issue his warrant for the apprehension of such person, and also to commit the accused to jail, there to remain until delivered pursuant to such requisition. It is unnecessary to recapitulate now the circumstances of the case, or to refer further to the evidence—evidence which you yourself have said establishes a case of piracy. For the reasons I have before urged, sir, and because it is desirable that no grounds should be given for remark regarding the administration of justice in this country, I urge you to commit the prisoners.

Mr. Raffles said: I don't retract anything I have said. I think still that on the evidence it is a case of piracy, but in a grave case like this one, I don't wish to take the responsibility of giving them up to the American government without allowing them full opportunity of getting the opinion of a superior court. I have had the opportunity of consulting others competent to advise me, and I have made up my mind to remand them. I do so, I repeat, for the purpose of giving the prisoners an opportunity of applying to the full court in London.

Mr. COBB. And we will do so, sir.

Mr. RAFFLES. As the case now stands, I believe it to be one of piracy. I express of course my own opinion, and it may be wrong. However, it is quite right to allow them an opportunity of applying to the full court.

Mr. SQUAREY. I was going to say, sir, you are the party charged with the administration of the act of Parliament.

Mr. RAFFLES. And I should carry it out, however—

Mr. SQUAREY. You have given your decision, sir, and it would be disrespectful for me to say more.

Mr. RAFFLES. However, you need not trouble yourself to attend again. I will give the prisoners full opportunity to get the opinion of the superior court. I will remand

them from time to time until that shall be effected. If the opinion of the superior court is against them, of course I will only have one duty to perform.

Mr. SQUAREY. Am I to understand, then, that you will remand them from time to time without hearing any further argument?

Mr. RAFFLES. That is my intention.

Mr. SQUAREY. The captain of the vessel is being kept here at considerable expense and inconvenience, and I fear we may not be able to induce him to remain longer.

The prisoners were then remanded.

[From the London Times of April 26, 1864.]

COURT OF QUEEN'S BENCH, WESTMINSTER, APRIL 25, 1864.

Sittings in Banco, before the Lord Chief Justice, Mr. Justice Blackburn, Mr. Justice Mellor, and Mr. Justice Shee.

The court took motions, and the first case moved was one which has a connection with the one above mentioned, but, as it practically in all probability may involve several lives, it is one of far deeper interest. It was the case of the confederates who are now in custody at Liverpool on a charge of piracy alleged to have been committed on the seizure by them of the federal schooner the *Garaty*, in November last, and who, if the court do not interfere, will be delivered over to the American authorities under the extradition treaty act, to be tried in America as pirates.

IN THE MATTER OF FERRAN AND OTHERS—THE CASE OF THE CONFEDERATE CREW.

This was an application on behalf of several men now in jail at Liverpool on a charge of piracy for a writ of *habeas corpus* to bring them up with a view to their discharge from custody under the following circumstances, as disclosed in the information and sworn depositions on which the men were detained. In November last there was a schooner, the *Garaty*, of New York, lying at Matamoras, bound to New York. Before sailing, a number of men engaged passage to New York, and among these were the prisoners. On the voyage these men seized the master and the crew, telling them at the same time, "You are to consider yourselves confederate prisoners." This was fifty miles away from land, in the Gulf of Mexico. They sailed to the coast of Yucatan, and there cast the crew of the schooner adrift in a boat. Among those who seized the vessel was one Hogg, who was called a major, and said to be in the confederate service, and who told the master of the schooner that he "had proper documents to justify the act." The master of the schooner himself admitted that he had heard that Hogg was a major in the confederate service, and believed him to be so, and he also stated that "Hogg was the leader of the party," and that the others acted under his orders; and the others said that they were engaged by a Major Hogg, of the confederate army, and that Hogg showed them documents signed by a General Bee, saying that they were granted by Jefferson Davis to justify what they did. So that it seemed pretty plain that the men, at all events, believed they were acting for the confederate government. The ship was taken to Belize, but what became of her did not appear. In February last the prisoners, some of the men who had seized the vessel, were found to be in this country, and thereupon, on the 15th of February, Mr. Adams, the American minister, made a requisition to Sir George Grey, as secretary of state for the home department, to have them delivered up under the extradition treaty of 1842. And accordingly, on the 20th of February, Sir George Grey issued his warrant under that act for their apprehension and detention. The warrant (which was read to the court) was in these terms:

"To her Majesty's justices of the peace, and other magistrates and officers of the peace in and for the borough of Liverpool, and to all other her Majesty's justices of the peace and other magistrates and officers of justice within the United Kingdom of Great Britain and Ireland:

"Whereas on the 15th day of February, 1864, in pursuance of a treaty between her Majesty and the United States of America, made on the 9th day of August, 1842, and ratified on the 10th day of October, in the same year, and of an act of Parliament passed in the session holden in the 6th and 7th years of her Majesty's reign, entitled 'An act for giving effect to a treaty between her Majesty and the United States of America for the apprehension of certain offenders,' a requisition was made by Charles Francis Adams, esq., the United States minister at this court, to deliver up to justice certain persons called or known by the names of James Clements, T. Wilson, Daniel O'Brien, and — Kelly, charged with the crime of piracy on board the schooner Joseph L. *Garaty*, of New York, within the jurisdiction of the United States of America:

"I, therefore, the Right Hon. Sir George Grey, Baronet, one of her Majesty's principal

secretaries of state, do hereby, in pursuance of the power and authority given to me as such secretary of state by the said act, require you and all of you within your several jurisdictions to govern yourselves accordingly, and to aid and assist in apprehending the said James Clements, T. Wilson, Daniel O'Brien, and — Kelly, and committing them to jail for the purpose of their being dealt with according to the provisions of the said treaty, and delivered up to justice pursuant to the said act, if found to be within the same.

"In witness whereof I have hereunto set my hand and seal this 20th day of February, 1864.

"G. GREY. [L. s.]"

The extradition treaty act of 1843, 6th and 7th Victoria, cap. 76, recites that "by treaty between her Majesty and the United States it was agreed that the authorities respectively should deliver up to justice all persons who, being charged with the crime of murder, or piracy, or arson, or robbery, or forgery, committed within the jurisdiction of either of the contracting parties, should be found within the territories of the other, provided that this should be done only upon such evidence of criminality as would, according to the laws of the place where the fugitive should be found, justify his apprehension and commitment for trial, if the crime had been there committed, and then it proceeds to enact that in case requisition shall at any time be made by the authority of the United States, in pursuance of and according to the treaty, for the delivery of any person charged with the crime of murder, or with the crime of piracy, or arson, or robbery, or forgery, committed within the jurisdiction of the United States of America, it shall be lawful for one of her Majesty's principal secretaries of state, by warrant under his hand and seal, to signify such requisition, and require all justices to aid in apprehending the person accused and committing such person to jail, for the purpose of being delivered up to justice, according to the treaty; and thereupon it shall be lawful for any justice of the peace, &c., to issue his warrant for the apprehension of such person, and to commit the person so accused to jail, there to remain until delivered, pursuant to such requisition." It was under this act that Sir George Grey had issued his warrant. The men were found to be at Liverpool, and Mr. Raffles, the magistrate there, on the 23d of February issued his warrant for their arrest. The warrant, which was read to the court, ran thus:

"BOROUGH OF LIVERPOOL, *to wit*:

"To the constables of the said borough, and to all peace officers of the said borough:

"Whereas the Right Hon. Sir George Grey, one of her Majesty's principal secretaries of state, by a warrant under his hand and seal, dated the 20th day of February, 1864, hath signified to me that, pursuant to the treaty made between her Majesty and the United States of America, in the year of our Lord 1842, and of an act of Parliament, passed in a session holden in the sixth and seventh years of her Majesty's reign, entitled 'An act for giving effect to a treaty between her Majesty and the United States of America for the apprehension of certain offenders,' a requisition was made to deliver up to justice James Clements, T. Wilson, Daniel O'Brien, and — Kelly, charged with the crime of piracy on the high seas, within the jurisdiction of the United States of America:

"These are, therefore, to command you, in her Majesty's name, forthwith to apprehend the said James Clements, T. Wilson, Daniel O'Brien, and — Kelly, pursuant to the before-mentioned act of Parliament, wherever they may be found in England, and bring them before me, or some other magistrate sitting at this court, to answer unto the said charge, for which this shall be your warrant.

"Given under my hand and seal, at the police court at Liverpool, in the borough of Liverpool aforesaid, this 23d day of February, 1864.

"T. S. RAFFLES. [L. s.]"

The men were arrested and lodged in jail at Liverpool under this warrant, which was obtained upon the information of the master of the schooner, one Nicholas, and on the 26th of February the prisoners were brought up before Mr. Raffles, and the master was the main witness against them. After hearing the evidence, it being contended on behalf of the prisoners that as they had acted under the confederate government they could not be deemed to have committed piracy, they were remanded, in order that the magistrate might consider what course he ought to take, and also that the prisoners might have an opportunity of applying to a higher tribunal. In the mean time the assizes occurred, and Mr. Littler, the prisoners' counsel, applied to Mr. Justice Willes, the senior judge of assize at Liverpool, for a writ of *habeas corpus*. The learned judge took time to consider the application, and next day said that he entertained a very strong opinion upon the case, and it appeared to him, and no doubt the magistrate would take the same view, that this was a case at which it would be an abuse that the men should be given up to their probable doom without their having the opportunity

of taking the opinion of the superior courts. The principle upon which the distinction between pirates and belligerents was based was well known and simple; but in this case it certainly would be highly improper for any magistrate to give up the men without consulting the superior courts. But his lordship did not think proper to grant the writ of *habeas corpus* to discharge the men, as this court would shortly meet, and he took it for granted that the men would not be delivered up in the meanwhile. Acting, of course, in accordance with the opinion of the learned judge, the magistrate from time to time remanded the prisoners, and on the 23d instant his last warrant of remand was issued, which ran thus:

"BOROUGH OF LIVERPOOL, to wit:

"11th and 12th Victoria, cap. 42, 43. Warrant remanding a prisoner to the constables of the said borough of Liverpool, and to the keeper of the head lock-up house for the said borough.

"Whereas Warren Quinsey, or Wilson George M'Murdoch or Kelly, and John Tevena or Clements, were this day charged before the undersigned, one of her Majesty's justices of the peace in and for the said borough, with having committed the crime of piracy on board a certain American ship on the high seas within the jurisdiction of the United States of America, contrary to the statute in that case made and provided, and against the peace, and it appears to me to be necessary to remand the said persons charged:

"These are, therefore, to command you, the said constables, in her Majesty's name, forthwith to convey the said persons charged to the said lock-up house for the said borough, and there to deliver them to the keeper thereof, together with this precept; and I hereby command you, the said keeper, to receive the said persons charged into your custody in the said lock-up house, and there safely keep them until the 30th day of April instant, when I hereby command you to have them at the police courts in Dale street, in the said borough, at 11 o'clock in the forenoon of the same day, before me, or before such other justice or justices of the peace as may then be there, to answer further to the said charge, and to be further dealt with according to law, unless you shall be otherwise ordered in the mean time.

"Given under my hand and seal this 23d day of April, A. D. 1864, at Liverpool, in the borough aforesaid.

"T. S. RAFFLES. [L. S.]"

"Exhibited and attached to affidavit of Miles Burton."

Such was the state of the case, and such its main facts as disclosed on the depositions. Mr. E. James, Q. C., (with him Mr. Littler,) now moved on behalf of the prisoners for a rule nisi for a writ of *habeas corpus*, directed to the keeper of the jail at Liverpool, directing him to bring them up with a view to their discharge out of custody. He contended that they were entitled to the writ on several grounds. First, that this act which the prisoners had committed was not piracy; next, that if it was so, it was piracy *jure gentium*, and so did not fall within the treaty of extradition, which applied only where the offense was committed in the foreign jurisdiction, and could not be tried in England; whereas if it was piracy *jure gentium* it could be. First, this was not piracy; it was an act done on behalf of one belligerent upon another. Piracy was a felony; this was not so. The facts which, if there was no state of war, might make out a case of piracy, would not make it out when there existed a state of war, and the act was done on behalf of one of the belligerents against the other.

MR. JUSTICE BLACKBURN. Does it appear that the commander of these men had a commission from the confederate government?

MR. JAMES. No, it does not; but that is immaterial. It is enough that they were acting, or believed that they were acting, on behalf of the confederate government; and of that there is ample evidence on the depositions. Piracy being a felony, must be an act done with the felonious intent, with the *animus furandi*. But here it was obvious that it did not exist. An act done on behalf of a belligerent could not possibly be piracy.

MR. JUSTICE BLACKBURN. Does it appear that the prisoners were British subjects.

MR. JAMES. It is enough for me to say that they do not appear to have been subjects of the federal States. (In point of fact, we believe, one is a native of Alabama and two are British subjects.) It is clear that they professed to be acting for the Confederate States.

THE LORD CHIEF JUSTICE. The application is for a *habeas corpus*, with a view to their discharge out of custody?

MR. JAMES. Yes; they are only in custody for the purpose of their being delivered up, not for their trial here. And my second point is, that even if the act was one of piracy, it was piracy *jure gentium*, and therefore does not fall within the treaty; for the treaty applies only if the offence be one which could not be tried in this country, and must

be tried in the foreign country. But if this were piracy *jure gentium*, then it was an offence triable in our courts in this country, and was not within the scope of the treaty of extradition, which did not contemplate piracy *jure gentium*, but piracy by the municipal law of the foreign country. In the last edition of Wheaton's International Law, page 253, the law was thus stated as laid down in the American courts on this very subject: "The courts of New York have had before them a case like this, and have dealt with it not as piracy *jure gentium*, holding that it could not be piracy, *jure gentium*, but piracy against their own municipal law." And in a note the learned writer stated:

"Privateers acting under commissions from the president of the Confederate States were brought into New York and indicted for piracy, and they were tried under a statute which was intended to apply to piracy, in substitution for another statute which defined it with reference to the law of nations. The statute embraces also cases of robbery committed on board an American vessel, though they might not come within the definition of piracy by the law of nations. It was admitted that if it were necessary on the part of the government to bring the charge within the definition of robbery and piracy, as known to the common law of nations, there would be great difficulty in so doing; for the evidence showed, if anything, an intent to depredate on the vessels of one nation only—the vessels of the United States—which falls far short of the spirit and intent said to constitute the essential elements of that crime. The statute, however, declares that a person shall be deemed a pirate who commits the crime of robbery on the high seas against any ship or vessel. And the interpretation clause applies it to the case of depredations on American vessels on the high seas under circumstances which would constitute the crime of robbery if committed on land. Upon this the men were convicted, but they were never sentenced, for the conviction led to threats of retaliatory action on the part of the confederates, and the proceedings were stopped.

Thus, therefore, it appeared, on the judgment of the federal courts, that a case like this was not piracy *jure gentium*, but had to be judged by the municipal laws of the State, which in this case did not apply, for the act would not be robbery on land. But if the act were piracy *jure gentium*, then it could be tried in this country, and was not within the extradition treaty. It made no difference, so far as the neutral power was concerned, that the prisoners had no regular commission, even if that were the case; for it was lawful for the subjects of one belligerent to commit depredations on the property and ships of another.

MR. JUSTICE BLACKBURN. Have you authority for that?

MR. JAMES cited Wheaton, page 627, to show that it was so, and that, though a subject of a belligerent might be punishable by that belligerent for committing acts of hostility on the ships or territory of the other without authority, yet that the act was not on that account piracy.

MR. JUSTICE MELLOR. You define piracy to be a crime committed against men in general, without any regard to their being belligerents?

MR. JAMES. Just so. The pirate is *hostis humani generis*. But this was an act on behalf of one belligerent against the other. The ship sailed from a Mexican port, and was on the high seas; and the prisoners acted in seizing her for the confederates.

The Lord Chief Justice observed that the act was on board an American ship, and asked if the ship did not carry with it the law, as the soil did?

MR. JAMES said he denied the application of that doctrine in the present case. The act was not piracy unless it amounted to piracy *jure gentium*, in which case it was triable here, and the extradition act did not apply, for that act applied only to an offence against the municipal law of the foreign state, which could not be tried here.

MR. JUSTICE BLACKBURN hinted a doubt if *habeas corpus* was the proper remedy.

MR. JAMES asked what other remedy could there be? The men were in custody for the purpose of being delivered over, and if allowed to be detained for that purpose would be delivered over, and it would be too late to issue the writ when they were on board an American vessel.

MR. JUSTICE SHER. You say the *habeas corpus* is the only course to question the right to detain the men for the purpose of delivery.

MR. JUSTICE BLACKBURN said his doubt was whether it would not be lawful to detain them for trial in this country.

MR. JAMES pointed out that, according to the warrants, they were not detained for that purpose, but for the express purpose of being delivered over to the American authorities, and if their detention was declared lawful, they would at once be delivered up, as the learned judge had observed, "to their doom."

In the result, the court granted a rule nisi for the writ of *habeas corpus*.

[From the London Times, May 10, 1864.]

COURT OF QUEEN'S BENCH, WESTMINSTER, MAY 9.

(Sittings in banco, before the Lord Chief Justice, Mr. Justice Blackburn, Mr. Justice Mellor, and Mr. Justice Shee.)

THE CASE OF THE CONFEDERATES CHARGED AS PIRATES.—EX PARTE TERNAN AND OTHERS.

Upon the evidence adduced before the magistrate it was submitted, on the part of the prisoners, that the act was not piracy, and not within the treaty. The magistrate (at the suggestion of Mr. Justice Willes, at the assizes) remanded the men from time to time, in order to allow of their making an application to this court, the warrant for their committal distinctly stating that they were committed, not for the purpose of trial in this country, but of delivering up under the treaty.

Mr. Edward James, Q. C., (with him Mr. Littler and Mr. F. H. James,) had, on behalf of the prisoners, obtained a rule *nisi* for *habeas corpus*, directed to the jailer at Liverpool, for the purpose of bringing them up with a view to their discharge, and now moved to make that rule absolute.

Mr. Lush, Q. C., (with Mr. Milward and Mr. Lushington,) appeared to show cause against the rule, instructed on behalf of the American minister. "The question (he said) is whether there is sufficient evidence before the magistrate to justify him in committing the men for trial."

The LORD CHIEF JUSTICE. There is an antecedent question much more important—whether the act applies where the offense is not exclusively within the jurisdiction of the State making the requisition? And are you not in this dilemma—that either this is not piracy, (in which view the case of course is at an end,) or, if it is piracy, that it is cognizable by the courts of this country, and so is not within the treaty of extradition? There appears to be the great difficulty.

Mr. Lush said he was quite aware of it, and was prepared to meet it. What was "piracy?" *Wheaton* defined it to be the offense of depredating on the high seas without the authority of any sovereign power. That was piracy "*jure gentium*," by the common law or by the law of nations. But, then, there was municipal piracy, or piracy created only by municipal laws, and which would not be piracy by the law of nations; and the word included both. Now, here the facts showed a *prima facie* case of piracy in the larger sense—piracy by the law of nations. There was the embarking on board as passengers, the seizure of the ship on the seas, the casting the master adrift, the abandoning of the ship, the sale of the cotton, and the possession of articles belonging to the master and crew. There is a charge of piracy under legal investigation; the magistrate would be bound to hear further evidence; in point of fact, further evidence could be adduced; the case is not closed; the committal is not final.

Mr. Justice BLACKBURN. The real point is whether—assuming that it is closed and is final—it is within the treaty. Whether the case is closed and the committal is final can be raised on the return to the writ.

Mr. Lush observed that two of the men were British subjects.

The LORD CHIEF JUSTICE. That makes no difference upon the question, however it may render them liable to the municipal laws of their own country for entering into a foreign service without their sovereign's leave. But if they, in point of fact, were in that service, and seized the ship in the course of that service, is it piracy?

Mr. LUSH. That is the question to be tried on the evidence.

The LORD CHIEF JUSTICE. But there is the antecedent question whether, even assuming the clearest case of piracy, it is within the treaty as triable only in America.

Mr. Lush remarked that the vessel had been abandoned by the captors, and the cargo sold.

The LORD CHIEF JUSTICE. We know not under what circumstances—stress of weather, or pursuit of hostile cruisers. But, assume that it is piracy, can you bring it within the treaty?

Mr. Lush said he would deal with that question. He admitted that no doubt the general object of the treaty, as a treaty of extradition, was the extradition of offenders from the country in which they were found, and in which they could not be tried, to a country which claimed them for the purpose of trial. Generally speaking the subjects of the treaty would be offenses which could not be punished elsewhere than in the country claiming the men. It was a general principle that crime was local, and could only be tried in the country where it was committed. But though this was so as to most cases it was otherwise as to piracy. That word was not in other extradition treaties; for instance, it was not in the treaty with France, which proceeded only on crimes strictly local in their character. And many of the crimes mentioned in the present treaty are so. But there is the word "piracy" introduced into the American treaty, a treaty between two great maritime countries. Now the word comprised piracy *jure*

gentium and piracy by municipal law, which may include acts not piratical by the common law. Now piracy *jure gentium* is defined to be the committing of an act of depredation on the high seas which, if committed on land, would be felony. And in that sense pirates were deemed to be enemies of the human race, and triable and punishable anywhere. By the general law of nations pirates in that sense may be tried in any country in which they may be found. But there is also piracy by municipal law, and there are acts punishable as piracy by the law of the United States which are not so punishable in this country. And the word "piracy" is used in both senses in this treaty. Moreover, piracy, like murder, may be committed on board an American ship, and if so, is within American jurisdiction. Murder committed on board an American ship would be murder committed within the jurisdiction of the courts of the United States just as murder committed on board an English ship on an English subject would be murder within the jurisdiction of the English courts. So, as to piracy, even assuming it to be piracy *jure gentium*, yet as being committed on board an American ship it would be within the jurisdiction of the American courts. For a ship is, for legal purposes, the soil or territory of the country to which it belongs, and piracy on board an American ship would be piracy within American jurisdiction.

Mr. Justice BLACKBURN. You are speaking of piracy *jure gentium*?

Mr. LUSH. Yes.

Mr. Justice MELLOR. That would be triable in the courts of this country?

Mr. LUSH. Yes; but the statute does not apply merely to cases triable exclusively in the American courts.

Mr. Justice BLACKBURN. Surely the whole scope and scheme of an extradition treaty applies it to offenses not committed within the jurisdiction of the courts of the country where the offender is found. Is not that the sense and spirit of the treaty?

Mr. Lush said he could not admit it to be so.

The Lord Chief Justice cited *Kent's Commentaries* (an American work,) to the effect that such treaties applied to crimes which could not be punished in the country where the offender is found.

Mr. Lush said he had already admitted, and he admitted again, that the general object of the treaty was the extradition of offenders who could not be tried in this country. But the offense of piracy was peculiar and unexceptional, and the word "piracy" in the act embraces such a case as this.

Mr. Justice BLACKBURN. Is not the effect of piracy this—that by force it overbears and destroys the nationality of the ships so that it necessarily for that very reason becomes a crime punishable in the courts of any country?

Mr. Lush disputed this; otherwise the courts of this country might claim to take cognizance of cases of piracy *jure gentium*, within three miles of the American coast, and so within American dominion.

Mr. Justice BLACKBURN. That is a very different case from the present.

Mr. LUSH. But if you once construe the term "piracy" to comprise cases on board an American ship it would equally include piracy in American creeks or harbors within American dominion. Take the case of murder; no one could doubt the treaty might embrace cases of murder in which our courts might have jurisdiction. Suppose the case of the murder of one English subject by another in the streets of New York. Surely that would be within the act; yet the offender could be tried either in America or in England.

The LORD CHIEF JUSTICE. Not in this country, except by virtue of particular statutes to meet such cases.

Mr. Justice BLACKBURN. Do you say that if the courts of this country were about to try a British subject for the murder of another British subject in New York, that it would be competent to the American government to demand his delivery up?

Mr. LUSH. Certainly.

Mr. Justice BLACKBURN. If you could make that out, you would do a great deal, certainly.

Mr. LUSH. Would not such a case be the case of a crime committed "within the jurisdiction" of the courts of the United States?

The LORD CHIEF JUSTICE. But surely the very case supposed is strong to show that those words in the treaty must mean exclusive jurisdiction.

Mr. LUSH. There is no such word in it.

The LORD CHIEF JUSTICE. But is not that so clearly the spirit and scope of the treaty that it must be construed in that sense? Where there is concurrent jurisdiction in the courts of both countries, and the prisoner is in the custody of the courts of one country, can it be contended that the treaty was intended to oust its jurisdiction, and to enforce the delivery up of the prisoner merely that he should be tried in the courts of the other country?

Mr. LUSH said he so argued. Such, he insisted, was the bargain made between the two countries, and they must both abide by it.

Mr. Justice BLACKBURN. The "bargain" of the two countries is set forth in the treaty itself, and does it not point to extradition in cases of exclusive jurisdiction?

The LORD CHIEF JUSTICE. Is not its scope and spirit this—to prevent fugitive offenders escaping from justice?

Mr. Justice SHEE. The words are "seeking an asylum" in the country in which they are found.

Mr. LUSH. That means merely that they are seeking to avoid trial, and the words are, "seeking an asylum, or found." The learned gentlemen went on to argue that here the crime was committed within the jurisdiction of the American courts, because it was committed on board an American ship. He cited a case in our courts to show it had been held here that an English ship on the high seas is part of the territory of England, and that a foreigner on board such ship is subject to our laws, and that therefore if he commits there an act criminal by our law he may (by statute) be tried in our courts.

The Lord Chief Justice observed that the effect of this was merely that by statute a British ship was made British territory for the purposes of our own criminal law. It did not establish any general principle of common or international law.

Mr. Justice Mellor remarked that the essence of piracy in the common-law sense was that it was an offense not against any particular nation, but against mankind in general.

Mr. LUSH. No doubt; but then it is an offence which must be committed in some locality, and if committed on board an American ship there is jurisdiction in the American courts; if on board a French or English ship, then there is jurisdiction in the French or English courts.

Mr. Justice Blackburn said he had derived from the American authorities the impression that their view of the law was that the effect of piracy was to overbear and destroy the nationality of the vessel.

Mr. Lush said he thought otherwise, but he was aware that in a case of the "United States v. Flintoff" (5 *Wheaton's Reports*), it was laid down that a commission issued by a person as an officer of the Mexican republic, or any unknown and unacknowledged State, would not authorize armed vessels to capture vessels of belligerents, and it was laid down that a person acting with good faith, under circumstances showing that the seizure was made *animo furandi*, might be guilty of piracy.

Mr. Justice Blackburn cited other cases in the same volume of *Wheaton's Reports* showing that the American view of the law was that the effect of an act of piracy in seizing a vessel was to divest it of its nationality, and constitute a crime equally punishable everywhere, as being piracy by the law of nations.

Mr. LUSH. There might be piracy without any actual seizure of the vessel.

Mr. Justice BLACKBURN. But that is not the present case. Here there was certainly a seizure.

Mr. Justice Mellor observed that the whole evidence showed that this was the object.

Mr. Lush admitted again that piracy at common law was cognizable in the courts of any country, but that did not make it, he urged, less within the treaty. For, if so, why was the word "piracy" introduced at all? What effect or application would it have?

Mr. Justice SHEE observed that there might be piracy by statute in some creek or harbor within the territorial jurisdiction of the United States, or, as we should say in England, within the body of a country.

Mr. LUSH. No doubt; and that is comprised in the word "piracy," and was meant to be included in the treaty; and so of piracy in an American ship.

Mr. Justice SHEE. You lay down a very large proposition in saying that a ship is the territory of the country to which it belongs. If that were so, then how would it be lawful to go on board a neutral ship to take contraband of war?

Mr. LUSH. That is a justifiable right of war.

Mr. Justice SHEE. It is not put on that ground. It is founded on the fact that the ship on the high seas is not part of the territory of the neutral.

Mr. LUSH. It is a right conceded to a belligerent, and is a justification of what otherwise would be in the nature of a trespass. On the same ground, the right of search is not conceded because the ship is deemed part of the territory; and what takes place on board a ship is, therefore, within the territory, and so within "the jurisdiction" of the country to which the ship belongs.

Mr. Justice SHEE. Those words in the act may mean territorial or local jurisdiction, or they may mean that legal jurisdiction which by our law is imposed upon its subjects, wherever they are as a consequence of allegiance. Here, however, they appear to mean territorial jurisdiction, and they may have a sensible meaning in that sense with reference to the laws of the United States without resorting to the doctrine that a ship on the high seas is within the jurisdiction of the country to which it belongs; for if a ship were within a creek or haven of the United States the act would be piracy by the American statutes, and it may be that the words have that meaning.

Mr. Justice Blackburn cited *Keat's Commentaries* to show that it was of no importance on whom or where a piratical offense is committed, as the pirate may by the laws of all countries be tried in any country where he is found.

Mr. Lush contended that, nevertheless, the case was within the act.

Mr. Justice Shée observed that the words "deliver up to justice" surely meant that the case was one in which the offense would not be triable unless the prisoner was delivered up.

Mr. Justice MELLOR. The object is to prevent an escape from justice.

Mr. Lush urged that the country on whose ship the piracy had been committed had greater interest in trying it.

Mr. Justice MELLOR. But it would not try it more impartially than we should.

Mr. LUSH. Not less so, I hope.

Mr. Justice MELLOR. No, nor less so; but then there is not, that I can see, any balance of convenience or "interest" in favor of the trial in America. The trial can be had quite as effectually here.

Mr. LUSH. There may be no prosecutor.

The LORD CHIEF JUSTICE. Here it appears that there is, and there have been preliminary proceedings.

Mr. LUSH. It may be that the proofs may be given with more facility in this country.

The LORD CHIEF JUSTICE. You yourself must argue that a case has been or may be made out against the prisoners here.

Mr. LUSH. A *prima facie* case; but we should have to bring over witnesses from America. There is no limitation as to British subjects, and there can be no doubt that we should be bound to deliver up British subjects under this act. The American government would not enter into a treaty of extradition with a stipulation excepting British subjects from its operation. The learned counsel then went on to argue that there might be a charge of piracy under the municipal law of America cognizable only in the courts of that country.

Mr. Justice BLACKBURN. But here there is one state of facts, and it is all one case, and it is all equally piracy.

The LORD CHIEF JUSTICE. And if the men are delivered up on the minor charge there can be no doubt that they would be tried upon the other.

Mr. LUSH. There was the act of robbery on the high seas, independently of the seizure of the ship, and that by the American law is piracy.

The LORD CHIEF JUSTICE. But we cannot disguise from ourselves that the real offense was the seizure of the ship.

Mr. Justice MELLOR. All the evidence shows that such was the object of the men and the real character of the act.

Mr. Justice BLACKBURN. And it is either piracy *jure gentium* or nothing. If it was justified as the act of a belligerent, it is nothing. If it is not so justified it is piracy. It was all one entire act.

Mr. Lush then argued that, at all events, in any view, the men were liable to be tried here, and so could not be discharged.

The LORD CHIEF JUSTICE. But the warrants show that they are not detained for trial in this country, but for the purpose of delivery up to the American authorities.

Mr. LUSH. Still they ought not to be discharged, as they might be properly detained.

The LORD CHIEF JUSTICE. Suppose we are of opinion that the effect of the treaty is not to oust the courts of this country of their jurisdiction, there is no right to detain the men for the purpose of delivering them up to the American authorities; and it would be too late if we waited until they were actually about to be delivered over.

Mr. LUSH. That would depend on the Secretary of State.

The LORD CHIEF JUSTICE. This warrant issues as a matter of course if the men are once committed to be delivered up.

Mr. Justice BLACKBURN. If the men are really detained for trial in this country that would be a good return to the writ of *habeas corpus*. But nothing in the case shows that that is so.

The LORD CHIEF JUSTICE. And if the men are illegally detained, as the matter now stands, they are entitled to be discharged.

After some further discussion, the learned judges went out to consider of their decision; and on their return,

The LORD CHIEF JUSTICE said: We are of opinion that the rule should be made absolute. We do not desire, at the present stage of the case, to express any decision as to the construction of the statute; but we think that in a matter of so much importance in an international point of view, it is desirable that we should have before us all the materials on which to form our judgment on authoritative grounds. We, therefore, think it better that the rule for a *habeas corpus* should be made absolute.

The rule will be argued next term, which begins on the 23d instant.

[From the London Times, May 25, 1864.]

COURT OF QUEEN'S BENCH, WESTMINSTER, MAY 24, 1864.

Sittings in banco, before the Lord Chief Justice, Mr. Justice Crompton, Mr. Justice Blackburn, and Mr. Justice Shee.

IN THE MATTER OF TERNAN AND OTHERS, PRISONERS IN THE JAIL OF LIVERPOOL.

Mr. James, Q. C., Mr. Littler, and Mr. T. H. James, appeared on their behalf, instructed on the part of Mr. Mason, the representative of the Confederate States in this country; Mr. Lush, Q. C., Mr. Milward, and Mr. Vernon Lushington, appeared, instructed by direction of the American minister, to oppose their discharge.

Mr. James, after judgment in the above case had been delivered, rose and informed the court that the prisoners were present in court, and moved that the return to the writ of *habeas corpus* be read.

The return was accordingly read by the master of the Crown office. It set forth the depositions taken before the magistrates, the substance of which is given above, but only the various warrants under which the prisoners had been committed and were now detained, for the purpose of being delivered up under the statute.

Mr. James thereupon observed that by the omission to return the examinations of the witnesses and the warrant of the Secretary of State, the case, after all, was not technically before the court; but his learned friend on the other side had agreed to waive that technical form, and argue the question of law it was intended to raise.

Mr. Lush said he quite assented to that; he took no objection; that was all he could say. Let it be taken, if the court pleased, that the examinations were before the court.

The Lord Chief Justice observed that one great point was whether the men were committed merely for further examination by way of remand, or were committed for delivery up under the act. How was this to be taken?

Mr. Justice Crompton also observed that this raised a difficulty, unless it were to be taken that the men were committed to be delivered up.

Mr. James submitted that it appeared that this was so.

Mr. Lush again rose and intimated that, so far as he was concerned, he waived any technical difficulty. Let it be taken that the magistrate had actually committed the prisoners for the purpose of being delivered up.

The Lord Chief Justice observed that he could not see the difficulty, for if the case was not within the act then the magistrate had no jurisdiction at all in the matter to commit the men in any way whatever.

Mr. Lush assented to that.

MR. JUSTICE BLACKBURN. Then, are we to take it that all the evidence available has been given?

MR. LUSH. Yes. It may be taken that there is no other evidence.

MR. JAMES. Then, my lord, I move that the prisoners be discharged.

MR. LUSH. On what ground?

MR. JAMES. That they are committed for piracy, for piracy *jure gentium*, and that this is not a case within the treaty or the act. There are other and minor objections which it is unnecessary to enter into if I am right on the main question. They are, I contend, entitled to be unconditionally discharged, as not being rightfully in custody, and not being shown to have been guilty of piracy. Now, as to the first question, whether this is piracy *jure gentium*, it is enough to say that it is charged as piracy, and that *prima facie* must mean piracy by the law of nations. If it is meant as piracy by municipal law, it should have been so stated. This court cannot enter into any other kind of piracy. It cannot take judicial notice or cognizance of piracy by the merely municipal laws of other states. This court knows nothing of such laws, and knows only of piracy by the law of nations and piracy by its own law. If it was shown to be piracy by the law of any other country, another question might arise whether it was within the treaty. But that question did not arise, unless it was shown to be municipal piracy, and it was not so shown. Therefore it must be taken, in the absence of any proof of American law on the subject, that this was piracy *jure gentium*, and as such it was not within the treaty or the act; for the treaty was one of extradition, and its object was to prevent failure of justice by escape of criminals out of the only jurisdiction within which they were triable. But piracy *jure gentium*, or by the law of nations, was triable anywhere. These extradition treaties all had for their object the security of justice, and they proposed to act by handing over escaped criminals who would escape justice if they remained where they were found. Such being the scope of these treaties, they must be construed in that sense. They had reference only, then, to crimes committed within the exclusive jurisdiction of the country demanding extradition under any such treaties. This view of their construction was, he contended, upheld by the highest American authorities. The learned counsel cited 1 *Kent's Commentaries*, 8th edition, p. 36, where the reason for the doctrine given us was, that otherwise the criminal might go unpun-

ished. Now, as a matter of history, this treaty was entered into primarily for the purpose of fixing the boundary between our territories and those of the United States. Two other objects were the abolition of the slave trade and the extradition of criminals; that is, in cases of grievous crime. And it was very natural, therefore, that when the slave trade was declared piracy the crime of piracy would be mentioned, which would include the slave trade. As regarded piracy, which was only piracy by the law of either country alone, it could not be "justifiable" in the other. Jurisdiction was either territorial or personal; that is, it was either local or grounded on allegiance. It was either jurisdiction within the territory of a state or over its own subjects. The latter, no doubt, extended over the subjects of the state everywhere, and over their property, and of course it would extend over their ships wherever they were. This was the true principle on which that kind of jurisdiction rested; it arose out of personal jurisdiction and personal allegiance. The subject of the state took his ship with him, and allegiance and jurisdiction followed and embraced both.

The LORD CHIEF JUSTICE. You would not deny that the courts of the United States would have jurisdiction over an American for murder committed on board an American vessel anywhere?

Mr. JAMES. Certainly not; but the personal jurisdiction carries with it the jurisdiction over the ship. It is because the state has jurisdiction over its own subjects wherever they were. But it did not follow that the United States could by its own law make that piracy or murder here which would not be so by our laws, except as regarded their own subjects in their own ships. One of our own statutes illustrated this doctrine: In the reign of William III we had an act making it piracy for vessels under the authority of James II to commit depredations on British vessels. But that act only applied to British subjects, and a foreigner could not have been treated as a pirate under its enactments. Now the United States, it is stated in *Wheaton*, had in terms adopted and re-enacted in effect that act of William III, and made it piracy for vessels "under color" of any commission from a foreign state to commit depredations on the ships and subjects of the United States. But it was admitted that this act only applied to subjects of the United States. Apply this to the present treaty. It plainly showed that the crime of piracy there mentioned must mean piracy as recognized by both nations, not piracy by the law of one of them alone. The terms of the treaty were "deliver up to justice," not to the authorities of the other country. This showed that the object was to prevent a failure of justice; that is, in cases in which the law and justice of both countries would recognize that without extradition there would be a failure of justice; that is, in cases in which there could not be concurrent jurisdiction. In the case of piracy *jure gentium*, there was concurrent jurisdiction; but in other cases mentioned there was not. In the case of murder it was by statute that a British subject committing the crime abroad could be tried here. But the argument did not apply to piracy, in which at common law there was concurrent jurisdiction. And could it be contended that in the murder case if the crimes had been committed in America the extradition of the prisoner could be claimed? Delivery up of our own subjects to be tried abroad for a crime equally triable here? Would that for a moment be upheld? Would that really be "delivery up to justice?" He would be equally amenable to justice here. He would be taken from justice here merely to subject him to justice elsewhere.

The Lord Chief Justice observed that the argument on the other side was that in such a case the criminal had escaped from justice in this sense, that all the evidence and means of proof were abroad, and justice might be certain to fail here.

Mr. James admitted that this might be a good reason for making a treaty to include such a case, but he insisted that the present treaty did not include it.

The Lord Chief Justice said that was the question.

Mr. James observed that the whole scope of the statute was compulsory. It left no discretion. In cases where it applied at all it was absolute, and allowed of no discretion.

Mr. Justice Crompton observed that that was so certainly.

Mr. Justice Blackburn added that there was no provision for the consideration in such a case of difficulties as to evidence, &c.

Mr. James said that was strong to show that the treaty was not meant to apply to cases where there was concurrent jurisdiction, and there happened to be some casual difficulty as to proof. It was a mere accident that there should be any such difficulty. The mere circumstance of the crime being committed abroad did not necessarily raise any difficulty as to proof, for the witnesses might be all here. A strong argument in favor of the same view arose from the provision at the end of the statute that in case of failure of demand in two months the prisoner should be discharged. Could it be supposed that we were to let a man go, criminal and triable in our own courts and by our own law, merely because a foreign state did not demand his extradition? Could so monstrous a conclusion be supported? And yet it logically followed, from the opposite view of the act, that it applied to cases of concurrent jurisdiction. One independent state having concurrent jurisdiction to make its exercise dependent on the will and pleasure of a foreign state! Yet that result, beyond all doubt, would follow the

construction contended for on the other side. The learned counsel went on to cite a case in the Supreme Court of America upon this very treaty. That was a case of a demand for extradition of a person for an assault with intent to murder committed in Ireland, and the court construed the treaty in the sense he had ascribed to it: "It is a compact between the two nations for the punishment of criminal offenders against their laws, where the guilty parties could be tried and punished only within the jurisdiction whose laws have been violated." It certainly was upon a former treaty, but it related to an article pertaining to extradition.

Mr. Justice SHEE. The article included murder, but not piracy—not, perhaps, that it makes any difference in your argument.

Mr. James said he thought that it did not. The principle was the same as to the point of concurrent jurisdiction, and it was there laid down distinctly that the article did not apply in a case of concurrent jurisdiction. The learned counsel then referred to a speech in Congress of Chief Justice Marshall upon a case of extradition. The argument in that case was that where there was concurrent jurisdiction the prisoner ought not to be handed over.

Mr. Justice SHEE. That was not upon this treaty, was it?

Mr. JAMES. No; but it was upon a question of extradition. It was in 5 *Wheaton's Reports*—a case of "*In re Robins*"; and with reference to offenses at sea, he laid it down that the jurisdiction of a nation was purely personal. He went on to define a pirate as an enemy of all nations, and so punishable alike by all. But he added that an offense which by its nature only affected a particular nation could only be punished by the courts of that nation, and only on its own subjects. "Piracy, by the law of nations, is punishable equally by all; but no particular nation can increase or diminish the list of crimes so triable."

Mr. Justice SHEE remarked that the case there was one of exclusive jurisdiction.

Mr. James said it was so, no doubt, but the principle was laid down as to concurrent jurisdiction.

The LORD CHIEF JUSTICE. The case would be far stronger in your favor had the case been one of concurrent jurisdiction.

Mr. James said the murder there no doubt was committed in the United States; but the whole reasoning on the case seemed to apply to cases of concurrent jurisdiction. He contended that the scope of the authorities was to support his conclusion, that these treaties did not apply to cases of concurrent jurisdiction. For that very reason it was usual in these treaties to exclude the subjects of each state from their operation. Why were they excluded? Why did a state decline to deliver up its own subjects? Because there could be no difficulty as to its own subjects, as it could take cognizance of their crimes wherever committed. It was true that for some reason the United States declined to accede to this exemption; but they ultimately did so. For this the learned counsel cited *Wheaton on International Law*, the great American work on the subject, written by Mr. Wheaton, the minister of the United States at Brussels:

"In the negotiation of treaties stipulating for the extradition of persons accused or convicted of specific crimes certain rules are generally followed. The principal of these rules are that a state should never authorize the extradition of its own citizens or subjects, or of persons accused or convicted of political or purely local crimes, but should confine the provision to such acts as are by common accord regarded as grave crimes, (p. 236.) The act, it will be observed, specifies the crime of murder, along with robbery and piracy.

"On the construction of the British treaty of extradition a crime committed at sea on board an American vessel has been considered the same as if committed on American territory; and therefore (it was said) was a case for extradition."

This strongly confirmed his argument.

The LORD CHIEF JUSTICE. There is certainly great stress laid upon the fact that there is exclusive jurisdiction.

Mr. JAMES. Yes. It seems taken for granted that the test is whether there is exclusive jurisdiction in the state requiring extradition. The learned counsel said this was the main and the most important question on which it was important to have the decision of the court. There were, however, other points. One of them was this: Supposing it to be not a case of piracy *jure gentium*, but of piracy by municipal law, and it did not appear that any of the men were American subjects—

Mr. Justice CROMPTON. It is stated that they were pirates within the jurisdiction.

Mr. Justice SHEE. "On the high seas within the jurisdiction." That is a very different thing.

Mr. JAMES. Just so.

Mr. Justice BLACKBURN. But if "piracy" means piracy *jure gentium*, why does it not mean that in the warrant? There no such piracy was shown or stated. It nowhere appeared upon the proceedings that there was any municipal law of the United States creating a peculiar species of piracy not so by the law of nations, nor that there had been such piracy committed in point of fact. It was for the parties requiring extradi-

tion to show this. For example, this species of piracy only applied to American subjects.

The LORD CHIEF JUSTICE. Then it will be said the case is out of court, for that the treaty does not apply to that species of piracy.

Mr. JAMES. Just so. And if it is piracy *jure gentium*, then no such piracy is shown. But further, the warrants are all bad. They show no jurisdiction in the secretary of state to issue his warrant. There must be an original charge in the country demanding extradition, and sworn evidence, and a warrant thereupon issued in America, and all this shown by sworn evidence to the secretary of state in this country; and thereupon he would have jurisdiction to issue his warrant, on which the jurisdiction of the magistrates must depend. The words of the act are: "who, being charged, shall seek an asylum"—that is, first being legally charged, and then escaping. This was quite clear, for the warrant and depositions in America were required to be shown to the secretary of state here. It was only upon that he had jurisdiction to issue his warrant. The warrant to be shown to him meant a warrant issued in the country requiring extradition. It had so been held in America in a case of an offense committed in Ireland; and, indeed, it was manifest, for the secretary of state was to inquire into "the truth of the charge"—that is, the charge made in America. There appeared not, however, to have been any such charge in America. There was no trace of any legal formal charge against these men in America.

Mr. Justice CROMPTON. The case supposed, you see, is that of a man who has escaped from justice. You suppose depositions taken and a charge made in his absence.

Mr. James said he would cite American authority to show that this view of the treaty was correct. He cited from *Wheaton's International Law*, p. 242:

"The United States will not make a demand upon the British government without the exhibition of a judicial warrant upon sufficient proof by the local authority of the state demanding extradition. A mere notification from a foreign legation is not sufficient to justify the preliminary action of the state from whom extradition is claimed." Now there was nothing here but a mere notification.

Mr. LUSH. That is not so. The secretary of state, in point of fact, never acts without sworn evidence, and he had such evidence in this case.

Mr. JAMES. What evidence? Whose evidence?

Mr. LUSH. The master's.

Mr. JAMES. Where taken?

Mr. LUSH. I presume at Liverpool.

Mr. JAMES. Then it won't do. There was no jurisdiction to act at all without sworn evidence and a warrant from America.

Mr. Justice BLACKBURN. If you are right in your view of the act, of course a deposition taken at Liverpool would not do. But is it so?

The LORD CHIEF JUSTICE. If it be so, you see in the case of a murder by one American subject of another on board an American ship in the British Channel, if the man escaped before a warrant could be issued, there could be no claim for extradition.

Mr. James observed that this only showed a defect in the act. He went on to submit that the warrant of the magistrate was bad, as it did not appear upon it that it had issued before he had taken sworn evidence.

The Lord Chief Justice asked if this was so in fact.

Mr. Lush said it was not so. There had been sworn evidence taken first.

Mr. James said it was not so stated in the warrants. The magistrate must show his jurisdiction on the face of the warrant. He had not a general right to issue warrants in such cases. It was a special statutable power, and must be strictly pursued. It was a clear principle of law that in any such case the warrant must upon the face of it show that the statutable requisites of jurisdiction had been complied with, or otherwise there could be no jurisdiction. For this the learned counsel cited several English authorities.

Mr. Justice Crompton pointed out that the defect, if it were one, could be cured. The defect was only in the original warrants, and there were subsequent warrants.

Mr. Justice BLACKBURN. The defect can be cured in half an hour by returning a new warrant.

Mr. JAMES. Well, my lords, I avow that I should be very sorry to succeed on this point and fail on the other. I now come to my last point, which is that there is no case of piracy at all. There was no evidence upon which a magistrate, acting within even his ordinary jurisdiction—a *fortiori*, within this special jurisdiction—could commit for piracy. That which would be piracy under some circumstances was not so in others. Thus the acts which in time of peace would be presumptive evidence of piracy would not be so in time of war if committed against a belligerent. The case must be viewed as if we were a neutral nation called upon to act as between two recognized belligerents. On the one hand there would be the representative of one belligerent claiming that the men should be delivered up as pirates, and the representative of the other belligerent avowing that it recognized and adopted the act. Surely, then, it became a matter of state, and ceased to be a matter of law.

THE LORD CHIEF JUSTICE. Is there any evidence of such a recognition in this case?

MR. JAMES. O, my lord, I am only supposing the case to illustrate my argument. It is enough to say that the case might occur. And if it did, then a neutral power must decline to deliver up the fugitive. In principle there was no distinction in this case. The Confederate States had been recognized as a belligerent; and if it could be shown that the act was done by their authority, this court surely would say it was a case of belligerency, not of piracy. There was at one time a representative of the southern States in this country, a gentleman named Mason. I (said the learned counsel) have the honor to appear for Mr. Mason, and on behalf of the Confederate States. And I avow, on their behalf, that this was a belligerent act, and one which they recognize and adopt. *Prima facie*, it would appear, even upon the evidence, that the act was done on behalf of the confederates. At the very time of the seizure the men said to the master, "You are to consider yourself a confederate prisoner." And the men acted under the orders of Major Hogg, who said he had papers from the confederate government. The master himself confessed that he believed the major was in the confederate service, and stated that he was the leader of the party, and that the prisoner acted under his orders entirely—that is, under the orders of a man professing and appearing to be an officer in the confederate service. The prisoners said they were sent on board for the particular service, and that Hogg showed them documents signed by a General Bee, and purporting to be issued under the authority of President Davis. Now surely, under these circumstances, the presumption was that the act was an act done on behalf of a belligerent, and so not piracy. And thus, whether the officer under whom the men acted had a commission or not, were men, under such circumstances, when in this country, without the power of giving further or more regular proof, to be delivered up to the other belligerent to be executed as pirates? It might be true, or it might be false, that the officer had the authority he assumed to have, but how could the men who acted under his orders know that? *Prima facie* the act of seizing a vessel of a belligerent was an act of war.

THE LORD CHIEF JUSTICE. Is it so where the men get on board as passengers?

MR. JAMES. Why not? It is a mere *ruse de guerre*. It matters not that they were volunteers, or had no regular commission.

MR. JUSTICE BLACKBURN said he should like some authority for these positions.

MR. JAMES said he was prepared to cite such authority. He contended, first, in point of legal principle, that those who acted for and as denizens of a belligerent power and under its authority were *quasi* its subjects, and if so, could not be deemed pirates for acts of warfare on the other belligerent. Suppose a vessel fitted out by a private person without a commission, but in aid of the confederates; depredations by such a vessel on the ships of the federals would not be piracy. He asserted that to be clear. How, then, did it differ the case that two of the men were not subjects or denizens of the Confederate States, and had no commission? Why, they could not have commissions.

THE LORD CHIEF JUSTICE. Suppose that *bona fide* these men were engaged by an officer they believed to be in the confederate service, then I should be disposed to agree that they could not be treated as pirates. But suppose it was all *mauld fide*, and merely colorable?

MR. JAMES. That is not to be presumed. On the contrary, fraud is never to be presumed; it is to be proved. But what proof is there of it?

MR. JUSTICE CROMPTON. The men are not shown to be subjects of the Confederate States.

MR. JAMES. Nor is it shown that they are not so; and I submit it must be presumed that they are.

MR. JUSTICE CROMPTON. The question is whether, it not appearing that they were so, and having got on board the vessel surreptitiously, there was not reasonable evidence for sending them to trial.

THE LORD CHIEF JUSTICE. The real question on this point is whether, on the evidence, the magistrate was not warranted in sending the men for trial.

MR. JAMES contended that he was not warranted. In time of peace, no doubt, the evidence would have been sufficient; but not in time of war, the act of depredation being on a belligerent. The presumption, then, was that the act was one of warfare, otherwise what power had the individual members of the crew of a belligerent vessel found in foreign ports to furnish regular legal proof of the authority of the officer under whom they acted against the other belligerent? Surely the only reasonable rule was that when the act professed and appeared to be done on behalf of a belligerent it should be presumed to be so. In support of this view the learned counsel cited a case from 5 Robinson's Admiralty Cases, where it was held that prizes taken without commission were liable to be seized by the admiralty as one of the *droits* of the Crown; not that the seizure was piracy, in which case the property would not be altered, and would remain in the owners. If Major Hogg were here, might he not appeal to the authority of that case in which a ship had been seized without any commission, and yet, as it was the ship of a belligerent, it was not held to be piracy? And if the officer

could appeal to our own law in his defense, were the men to be deprived of that defense who had acted under his orders? An officer at a distance from home might naturally venture to act on his own discretion for the benefit of his country. Was he to be treated as a pirate on that account? And if not, were the men who acted under his orders to be so treated? The learned counsel, after urging this topic with great energy, proceeded to quote from Kent's Commentaries to show that it was only in modern times that commissions were issued, and that states now often took advantage of private cruisers. The passage ran thus:

"It is said not to be lawful to make captures without a commission. The subject has been repeatedly discussed in the Supreme Courts of the United States; and the doctrine of the law of nations is held to be that private citizens cannot acquire a title to hostile property unless seized under a commission. If they depredate upon the enemy without a commission, they act at their own peril and are liable to be punished by their own sovereign; but the enemy is not warranted to consider them as criminals. As respects the enemy, though such captures without commission are exceedingly irregular and dangerous, and would probably expose the parties to the unchecked severities of the enemy, yet they are not acts of piracy unless committed in time of peace. * * * And thus non-commissioned vessels of a belligerent may capture hostile ships without being condemned as pirates. By the law of nations they are lawful combatants."

Such was the doctrine laid down by the American courts and the great American commentators.

Mr. Justice CROMPTON. This was a merchant ship.

Mr. JAMES. That makes no difference. It is clear international law that the subjects of one belligerent may lawfully prey upon the commerce of another.

The LORD CHIEF JUSTICE. It will not be denied, probably, that if this were really an act done on behalf of the Confederate States it would not be piracy.

Mr. Lush said he did not at all dispute that.

The LORD CHIEF JUSTICE. The difficulty is in knowing whether this was really an act done on behalf of the confederates.

Mr. JAMES. A difficulty, no doubt, which necessarily arises in the case of a state recognized as a belligerent, but not as a state. But, then, the mere misfortune of the belligerent, or the disability of regular proof, could not, in the face of fair and reasonable presumptions, be taken as leaving the parties exposed to the penalties of piracy. The learned counsel went on to cite American authorities to show that such reasonable evidence as the case would admit of was deemed sufficient in such cases. What else could be the proof in the case of a new or revolted state, which perhaps might have no regular seal, or regular commissions, while first fighting for its independence? He appeared there on behalf of Mr. Mason, who had been received and recognized in this country as representative of the southern States.

Mr. Lush objected to this.

The LORD CHIEF JUSTICE. We of course give entire credence to the statement of the learned counsel that he is in fact so instructed. But how are we to take judicial cognizance of the position of any gentleman in this country as representative of a state not recognized as such?

Mr. JAMES. There is, no doubt, that difficulty. But surely there can be no reasonable doubt, under the circumstances, that these men really acted under the orders of a confederate officer. This country, as a neutral power, was anxious to hold the scales of just neutrality fairly and impartially between the two belligerents in this great contest. And in the converse case of a federal seizure of a confederate vessel, would not the evidence be sufficient to raise the presumption of an act of warfare? But, in truth, it did not lie upon the prisoners to prove that it was so; it rather lay upon the prosecutors to prove that it was not so; for otherwise it could not be piracy, and it was for the prosecutors to make out a *prima facie* case. In conclusion, after an address which had lasted several hours, the learned counsel said, with emphasis, that the case was one of the most important that could possibly have been brought before a British court, and was one which required, and he was sure would receive, the most careful and anxious consideration.

The junior counsel were then heard on the same side, and they referred to the following authorities in Wheaton:

"The President of the United States, while he in his proclamation of April 19, 1861, inaugurated a blockade of the so-called Confederate States based on belligerent rights, at the same time declared that any person acting under letters of marque issued under their authority would be held amenable to the laws of the Union for the prevention and punishment of piracy. This act of the American government was thus noticed in a debate in the House of Lords on the 16th of May, 1861. Lord Derby said, 'If there is one thing clearer than another, it is that by the law of nations privateering is not piracy; that no enactment on the part of any one nation can make that piracy as regards the subjects of another country which is not piracy by the law of nations or the law of that country. The northern States, therefore, cannot be allowed to think that

they are at liberty to strain the law so as to convert privateering into piracy and visit it with death.' And in this opinion Lord Brougham, Lord Kingsdown, Lord Chelmsford, and the then lord chancellor, concurred. Then the author goes on to notice a case in the American court on which the counsel for the prisoners, when the rule was moved, placed great reliance.

"Privateersmen acting under commission from the president of the Confederate States were brought into New York and indicted for piracy. The case went to the jury on the act of Congress which was intended to apply to piracy as a substitute for the definition of piracy by the law of nations. The statute, it was maintained, embraced cases of robbery committed on board an American vessel, though they might not come within the definition of piracy by the law of nations. The presiding judge admitted that if it were necessary on the part of the government to bring the crime charged in the present case against the prisoners within the definition of robbery and piracy as known to the law of nations, there would be great difficulty in doing so upon the evidence, for that shows, if anything, an intent to depredate upon the vessels and property of one nation only, which falls far short of the spirit and intent that are said to constitute essential elements of the crime. But the robbery charged in this case is that which the act of Congress prescribes as a crime, and may be denominated a statute offense, as contradistinguished from that known to the law of nations."

The arrest, however, led to retaliatory action on behalf of the Confederate States, and on the 31st of January, 1862, an order was issued by the Secretary of State directing the transfer of all prisoners charged with piracy (including those who had been convicted) to a military prison, for the purpose of exchanging them as prisoners of war. Lord Russell, in acknowledging (January 24, 1862) to Lord Lyons the receipt of a copy of the judge's published statement on the question, whether the southern privateersmen can be regarded as pirates, and expressing the satisfaction of her Majesty's government that the pretension had been so successfully combated, adds:

"There can be no doubt that men embarked on board a privateer having a commission, or of which the commander has a commission, from the so-called President Davis, should be treated in the same way as officers and soldiers similarly commissioned for operations on land. An insurrection extending over nine States in space and ten months in duration can only be considered as civil war, and that persons taken prisoners on either side should only be considered as prisoners of war. Reason, humanity, and the practice of nations require that this should be the case."

Mr. Lush, Q. C., (with him Mr. Milward and Mr. Vernon Lushington,) then addressed the court on the other side, against the prisoners' discharge. He first argued that the warrant of the Secretary of State, on which the whole proceeding was founded, was good. The statute did not require any "charge" in America in the sense of a formal legal charge, but merely in the sense of an accusation. All that was necessary was that there should be a requisition from the American minister for the delivery up of the parties charged, (*i. e.*, accused.) Upon that requisition the secretary of state was bound to issue his warrant, and upon that the magistrate was to issue his warrant for the arrest of the accused; and all he had to do was to act as prescribed by Jervis's acts, and issue such a warrant as there required. It was the fact, though it did not appear upon the warrant, that the magistrate had taken sworn evidence before he issued his warrant, and the counsel on the other side had overlooked the statute 8th and 9th of Victoria, for the more effectual execution of the extradition act, and in entire conformity with the provisions of which these proceedings had been taken. As to the necessity for proceedings in America, the criminal might have escaped before any could be taken; and when found here, if he could not be arrested until proceedings had been taken in America, he would escape from this country.

The LORD CHIEF JUSTICE. Upon that point you need not trouble yourself.

Mr. Lush then said he would come to the main question—the meaning of the act. Now, by international law it appeared that there was no obligation on one state to deliver over the fugitive criminals of another. Nor, indeed, was there legal power to do so, and the law on this subject was the same in both these two countries. What, then, might be supposed to be in the minds of both contracting parties? The earlier treaties between them did not specify piracy; but, being both commercial countries, they had a common interest in the punishment of that crime. It must be taken that the ministers of both states were well aware that the courts of either could punish piracy wherever committed. All this must have been known to Parliament when it passed this act, which ought to be construed in its natural sense; but, on the other side, it was sought to give it a forced and strained interpretation, according to which, if these men had been actually arrested in New York, and had been committed for trial and then escaped, extradition could not be claimed. Why? Where was that qualification to be found in the terms of the treaty or of the act? The criminal law of both countries was substantially the same, and the same terms were used. Why, then, should they not have the same meaning? There was no exception in the treaty of our own subjects. The United States had refused to assent to such an exception. Take the case of murder. Suppose a British subject had committed a murder in America

on another British subject, (for which, of course, he could be tried here,) could not his extradition be claimed?

The LORD CHIEF JUSTICE. Suppose he had been tried here and acquitted. Could the American government claim his extradition, to be tried again in America, on the ground that they were not satisfied with the result?

Mr. LUSH. That is an extreme case not likely to occur.

The LORD CHIEF JUSTICE. But you must admit it is possible it might occur.

Mr. Lush admitted that. But, after all, the American law, like our own, admitted the principle that a man could not be tried twice for the same offense, and he could plead his acquittal; but it is not to be supposed that in such a case the government of the United States would claim the extradition.

Mr. Justice CROMPTON. Suppose he was about to be tried here, could we not try him? I cannot see why we should not.

Mr. Lush proposed to deal with that point.

At that point, however, the court adjourned.

[From the London Times, May 26, 1864.]

COURT OF QUEEN'S BENCH, WESTMINSTER, MAY 25.

(Sittings in Banco, before the Lord Chief Justice, Mr. Justice Crompton, Mr. Justice Blackburn, and Mr. Justice Shee.)

IN THE MATTER OF TERNAN AND OTHERS, PRISONERS IN THE JAIL OF LIVERPOOL.

Mr. Lush, Q. C., (with him Mr. Milward and Mr. Vernon Lushington,) instructed on behalf of the American minister, yesterday commenced his argument against the discharge of the prisoners, and to-day continued it. This, he said, was the first time the question as to the construction of the treaty had arisen directly in the courts of either country. He contended that the offense in this case was "committed within the jurisdiction of the United States," being committed on board one of their ships, and he should contend, if necessary, within their exclusive jurisdiction, because for this purpose the American ship was like American territory.

The Lord Chief Justice observed on the change of expression in the next clause of the sentence—"found within the territory" of the state from which the extradition is claimed.

Mr. Lush thought that was in favor of his view. "Jurisdiction" had a larger meaning than "territory." The jurisdiction of a state extended beyond its territory, as in the case of ships.

The LORD CHIEF JUSTICE. Surely this case is "within our jurisdiction," for we could try it.

Mr. LUSH. No doubt, in that sense, it is within our jurisdiction; but it is, in a stronger sense, within the jurisdiction of the United States, for it was committed within their *quasi* territory. It is not necessary to contend that it is exclusively in their jurisdiction. The word "exclusive" is not in the treaty or an act. Most of the crimes mentioned in the treaty—arson, robbery, forgery—are such as if, committed in America, would not be within the jurisdiction of our courts; and murder is so only by reason of a British statute and in the case of a British subject. According to the argument on the other side, the United States could not claim extradition of an American subject for the murder of an American in this country. In a certain sense no doubt that would be "within our jurisdiction." But surely, in a far higher and stronger sense, it would be within the jurisdiction of the United States. Then as to piracy. What did the word mean? Why, *prima facie*, it meant the crime of piracy by the law of nations. Both nations understood and used the term in that sense; and both agreed as to what it meant in that sense. On the other hand, each nation by its own law made acts piracy which were not piracy by the law of nations. Thus, robbery on board a British ship was not piracy in America, but on an American ship it would be. The primary meaning of the term piracy was the meaning common to both countries, and that was the sense in which it was here used.

The LORD CHIEF JUSTICE. Would it not also include piracy created by statute, so far as the statutes of both countries agreed?

Mr. LUSH. Possibly it would. At all events, I am not concerned to dispute it. Probably the term "piracy" in the treaty comprises all kinds of piracy common to the laws of both countries. But it does not include piracy merely by the municipal law of either country, so far as it is peculiar to that country. What was murder here was murder in America; so of arson, so of robbery, and why not so of piracy? In the French treaty, where one of the terms, murder, was used in a peculiar sense it was explained.

Mr. JUSTICE SHEE. Because in the French language there is no term to express "murder" as it is meant in our law.

Mr. LUSH. Just so. And so if piracy here were meant in any peculiar sense it would be so explained—as, for instance, if it was meant to include piracy in American ships in American waters. But this was a case of piracy in an American ship on the high seas, which was within the jurisdiction of the United States.

Mr. JUSTICE CROMPTON. Surely the term "jurisdiction" must be construed in some fixed sense, not a sense floating and fluctuating.

Mr. LUSH. Then you exclude all cases of crimes committed on board of ships?

Mr. JUSTICE CROMPTON. Not so; but it excludes cases like this, of depredations upon ships in distant seas. Take, for instance, a case of that kind in the Chinese seas near an English settlement. All the reasoning upon convenience—the presence of the witnesses, &c.—would go to show that the place of trial should be the English settlement, not necessarily the distant country of the owner of the ship.

Mr. LUSH. If it were piracy it would be in the common jurisdiction of all the countries.

Mr. Justice BLACKBURN. But there may be a robbery on board a ship which is not a piracy *jure gentium*; it is only acts of depredation on the ship, and interference with that, which amount to piracy by the law of nations.

Mr. LUSH. That cuts down the meaning of the word "piracy" in the treaty.

Mr. Justice BLACKBURN. No. It goes to show that the sense in which the word is there used is not the sense of piracy *jure gentium*.

Mr. LUSH. The term has a common meaning in both countries; why should it not be supposed to be used in that sense? And in that sense it was committed within the jurisdiction of the United States. The learned counsel proceeded to cite from Wheaton in support of his position:

"Both the public and private vessels of every nation on the high seas, out of the territorial limits of any other state, are subject to the jurisdiction of the state to which they belong, and Vattel says that the ships of a country are part of its territory."

The learned counsel likewise referred to other passages in Wheaton which he contended were in favor of his position:

"The judicial power of every independent state extends, with the qualifications mentioned—1. To the punishment of all offenses against the municipal laws of the state, by whomsoever committed, within the territory. 2. To the punishment of such offenses, by whomsoever committed, on board its vessels on the high seas, and on board its foreign ships in foreign ports. 3. To the punishment of all such offenses by its subjects, wheresoever committed. 4. To the punishment of piracy and other offenses against the law of nations, by whomsoever and wheresoever committed.

"It is evident that a state cannot punish an offense against its municipal laws, committed within the territory of another state, except by its own citizens; but it may arrest its own citizens in places not within the jurisdiction of any other nation, as the high seas." (P. 230, 231, last edition.)

"The judicial power of every state extends to the punishment of certain offenses against the law of nations, among which is piracy. Piracy is defined to be the offense of depredating on the seas without being authorized by any sovereign state, or with commissions from different sovereigns at war with each other. The officers and crew of an armed vessel commissioned against one nation, and depredating upon another, are not liable to be treated as pirates in thus exceeding their authority.

"The state by whom the commission is granted, being responsible to other nations for what is done by its commissioned cruisers, has the exclusive jurisdiction to try and punish all offenses committed under color of its authority." (P. 247.)

"Unfortunately, in applying the term piracy in the codes of different countries, regard has not always been had to the fact whether the offense described is one against the law of nations, and consequently everywhere justiciable, or a crime for which the nomenclature has been arbitrarily adopted, and which is cognizable only before the municipal tribunals of the particular state," and which is cognizable only before the municipal tribunals having jurisdiction either territorial, actual, or implied, or over the person of the offender. The South American publicist Bello says:

"There can be no doubt about the competency of the legislative authority of a state to establish laws regulating the mode of proceeding against pirates; nor is it important against whom or in what place an act of piracy has been committed, because it is subject to the jurisdiction of any power whatsoever. But no sovereign has the right of qualifying as such those acts which are not comprehended in the definition of the crime as generally admitted. A government, however, can declare that this or that offense perpetrated on board its own vessels is a piratical act. The American Congress declared, in the year 1790, that every crime committed at sea which, if committed on land, would be punishable with death, was piracy. Nevertheless, as this law goes beyond the definition of the crime by the law of nations, it would not render legal the jurisdiction of the American tribunals over acts committed under the flag of another country which are not strictly piratical."

Upon the act the Supreme Court decided that the crime of robbery committed by a person who is not a citizen of the United States, on the high seas, on board of a ship belonging exclusively to subjects of a foreign state, is not piracy under this act, and is not punishable in the courts of the United States. But they held, in a subsequent case, that "general piracy, or murder, or robbery committed upon the high seas, or in any river, haven, basin, or bay, out of the jurisdiction of any particular state—by any persons on board of a vessel not at the time belonging to the subjects of any foreign power, but in possession of a crew acting in defiance of all law and acknowledging obedience to no government whatever, is within the true meaning of the act, and is punishable in the courts of the United States." That act provides against citizens of the United States committing piracy or robbery against the United States or any of its citizens on the high seas, under color of any commission from any foreign prince or state, or on pretense of authority from any such person, and declares that such offenders shall be adjudged pirates and suffer death. And though equal effect may be given to the *bona fide* commissions of actual belligerents as to those of fully recognized governments, it was held by the Supreme Court in 1820 that a commission issued by a person calling himself "Brigadier of the Mexican Republic," (a republic the existence of which was unknown and unacknowledged,) or as "Generalissimo of the Floridas," a province then in possession of Spain, would not authorize armed vessels to make captures at sea, the court saying, "Whether a person acting in good faith under such a commission may or may not be guilty of piracy, the commission can be no justification of the act in this case;" adding, "the whole transaction taken together demonstrates that the ship was not captured *jure belli*, but seized *animo furandi*. It was not a belligerent capture, but a robbery on the high seas." "But in the case of one having a commission from a party to a recognized civil war, no irregularity as to acts done *jure belli* will make him a pirate. He stands in the same position as if he held a commission from an established government, so far at least as regards all the world except the other party to the contest."

So Chief Justice Marshall laid it down that the jurisdiction of every country extended not only to its subjects on its territory, but in its ships.

Mr. Justice SHEE. Not because the ships are parts of its territory, but because the persons are within its jurisdiction.

Mr. LUSH. Within its jurisdiction, because within its *quasi* territory.

Mr. Justice SHEE. That is a very different thing.

The LORD CHIEF JUSTICE. Because deemed part of the realm of England?

Mr. LUSH. Just so.

Mr. Justice CROMPTON. Is that so? Before the statute we could not try a British subject for a murder on board a British ship on the seas.

Mr. LUSH. There was a mere technical difficulty.

Mr. Justice CROMPTON. Why, if we could not try him, it was hardly "technical." The truth is, that we had no jurisdiction in such a case at common law.

Mr. Lush thought we had jurisdiction, but there was a difficulty in its exercise. However, to return to the particular case in hand, that of piracy. There was not an iota of authority on the subject. The case cited yesterday on the other side was a case of murder on board an English ship, and the argument was that it was triable in the United States. It was an entire error to suppose that Chief Justice Marshall assented to the doctrine that such a treaty did not apply in cases of concurrent jurisdiction. He says: "It is argued that the article will not embrace a case of concurrent jurisdiction. It is unnecessary to controvert that, for it is demonstrable that the courts of the United States have jurisdiction."

The Chief Justice, therefore, by no means adopted the doctrine. So as to the other case cited yesterday, the case of cutting and wounding in Ireland, the point really did not arise.

Mr. Justice BLACKBURN. It was not the point decided, certainly.

Mr. LUSH. It did not arise, for there was no concurrent jurisdiction—the offense being committed in Ireland, on a British subject.

Mr. Justice CROMPTON. The judges in that case speak of "an exposition of the law" on the subject in their judgments.

Mr. LUSH. But the judgments did not turn on that question; there was merely, therefore, the expression of an opinion upon the question. Then as to the argument that the treaty was one for the suppression of the slave trade; he did not quite understand it. The treaty, no doubt, was for the settlement of boundary and the suppression of the slave trade, and the giving up of fugitives from justice in certain cases.

The LORD CHIEF JUSTICE. The argument was that the object of the suppression of the slave trade accounted for the introduction of the word "piracy," and went to explain its meaning.

Mr. LUSH. But then the treaty uses the words "jurisdiction or territory" as if it meant jurisdiction by land and sea, and thus the treaty supports my view of the meaning of the words "within the jurisdiction."

The LORD CHIEF JUSTICE. I think we must confine ourselves to the statute.

Mr. LUSH. Or so much of the treaty as is recited in it, and the recitals of it in this

act relate only to the crimes of "piracy," murder, robbery, forgery, &c., and the escape of fugitives from justice in such cases. The learned counsel went on to notice a Canadian case—the case of the *Chesapeake*—in which the court laid it down:

"It was doubtless to prevent the failure of justice that would necessarily result from offenders in one country seeking refuge in the other, and there being amenable to no punishment, that this treaty was entered into; and it is not difficult to understand how the crime of piracy in its general sense might come within the operation of the treaty, when a pirate, having gone into one or other of the countries, and so made himself amenable to its courts, and had been there legally charged with the offense, had fled to or been subsequently found in the territory of the other, that in such a case the country where he was first found might claim jurisdiction over the crime and the person so charged. But I am unable to arrive at the conclusion that when the pirate has never, after committing the offense, entered the country of one of the contracting parties, but is found in the territory of the other, the government of the former can assume jurisdiction over the offense and person, and require him to be given up, and so to denude the latter country of its clear jurisdiction in the matter."

But that reasoning was, he submitted, unsatisfactory; and, moreover, on this question there was no direct decision, so that the case was no authority. He contended that, as to the construction of the act, its terms ought to be construed in their plain, natural, ordinary sense, and in that sense they included piracy, as it was understood in common by the law of both countries—that is, piracy by the law of nations; and in that sense it would include this case. Then as to the facts. The sole question was whether there was, *prima facie*, a case to commit for trial; and he contended that there was. It might be that volunteers, really acting for a belligerent, might not be guilty of piracy.

The LORD CHIEF JUSTICE. To constitute the crime of piracy the act must be *animo piratice*, if that is an admissible phrase.

Mr. LUSH. No doubt. And I am not sure that even if some among the men robbed for their own benefit, being with other subjects of the Confederate States who were acting as belligerents—I am not sure that even then they would be guilty of piracy. But that is not so here; and there was, *prima facie*, a case of piracy.

The LORD CHIEF JUSTICE. What is there to show that the alleged ground of seizure—viz., as an act of warfare—was not really so, but was false and colorable?

Mr. LUSH. What is there to show that the pretense was real, and that they seized for the confederates at all?

The LORD CHIEF JUSTICE. They said so at the time, and the master said he believed their officer was in the confederate service.

Mr. LUSH. But on the whole of the evidence the case was *prima facie* one of piracy. It was not like a capture by a confederate cruiser such as the *Alabama*. It was a seizure by passengers, and they sent the master adrift in the open sea.

The LORD CHIEF JUSTICE. Not under such circumstances as to endanger his life.

Mr. JAMES. It was only nine miles from the shore they did so.

Mr. Lush referred to the evidence and read it at length, commenting upon the passage on which the prisoners' counsel placed reliance, especially the following, in the evidence of the master:

"The men appeared to be acting under the orders of a Major Hogg, who said he had papers to justify his acts. I had heard that he was in the service of the confederates; and I believe from his appearance that he was so."

This was merely his conjecture or impression from the man's appearance. Could it be said that there was no case for the jury? If so, it was the duty of the magistrate to commit the men for trial. The men had each of them several *aliases*, and were found at Liverpool in possession of some articles the property of the captain. It was true they said that they had seen papers in Hogg's hands showing his authority. But what was there to show that this was not really all mere pretense? Whether it was or not was for the jury who should try the case, not for the magistrate, whose duty was only to commit for trial. In conclusion, the learned counsel reverted to what he deemed to be the great question—the true construction of the treaty. As to that, he said, he need not remind the court that it was a question of deep and paramount importance; nor need he deprecate their deciding it with reference to our relations with America, the fate of the prisoners, or any other consideration than the proper construction of the act, the terms of which, he contended, must be taken in their plain, natural, ordinary sense, and the sense in which they were used in common in the law of both countries.

Mr. Milward was heard on the same side. If, he urged, the word "piracy" in the act did not mean piracy by the law of nations, its primary sense and meaning, what did it mean, and why was the word inserted? For in no other sense was the crime within the common jurisdiction of both countries, and in no other sense was it committed within the law of both countries. The very argument on the other side was that piracy by the peculiar municipal law of America was not piracy by our law. Thus, therefore, the word "piracy" could have no meaning except piracy in the larger sense, piracy *jure*

gentium, by the law of nations. Unless it was taken in that sense it had no sense at all in the statute; and, as no restrictive words were used, why should it not be taken in that sense? As to the arguments upon convenience or inconvenience, the legislature had dealt with and disposed of them, and had positively enacted that in a case of piracy the criminals should be given up. The matter was left by the act in the hands of the executive governments of the two countries as the heads of justice. The learned counsel proceeded to cite the declaration of the *Law of Prize* drawn up by Sir George Lee (an eminent civilian) in 1753, and adopted then, and again in 1794, by our government. He cited it (from *MacLachlan on Shipping*) to show that the law of nations might be altered by treaty as between the two contracting states. Applying that doctrine to the present case, he argued that, by the force of the terms of the treaty in their plain, ordinary sense, parties charged with the crime of piracy must be delivered up to the country claiming them, provided that there was reasonable evidence of a *prima facie* case.

Mr. Vernon Lushington followed on the same side, applying himself to the main question in the case, the construction of the act. As to the word "jurisdiction" *per se* there was, he said, no question. It was argued, on the other side, however, that the word should be construed as if the word "sole" or "exclusive" were introduced before it. But if so, surely the words "*jure gentium*" should be introduced after the word "piracy," and then there would be this solecism—"piracy *jure gentium* within the exclusive jurisdiction of the United States."

The LORD CHIEF JUSTICE. It comes to the same thing whichever way you put it.

Mr. Justice CROMPTON. The argument is, that if piracy within the common jurisdiction of all nations is meant, it cannot be "committed within the jurisdiction of the United States."

Mr. Lushington urged that if the word "exclusive" were to be inserted to qualify the word "jurisdiction," words should be introduced to qualify the word "piracy." He claimed to construe the word "piracy" in its plain, primary, ancient, ordinary sense; and on the other side it was claimed to insert the words "not being *jure gentium*" after the word "piracy." But why should those words be taken to be inserted? There were cases in which this country had surrendered pirates to the country on whose ships they had depredated, and in one of these cases Mr. Justice Story said the reason was because the evidence was naturally in that country.

The LORD CHIEF JUSTICE. Surely the object of the treaty is to prevent escape of criminals from justice.

Mr. LUSHINGTON. No doubt it is one of the objects; but is it the only object? May it not have also in part for its object the more effectual furtherance of justice by preventing failure of justice through possible defect of proof? The learned counsel went on to argue that there was nothing in his view of the act at all to militate against our sovereign jurisdiction. The whole scope of an extradition treaty involved some voluntary concession on each side of sovereign rights for the sake of the better furtherance of justice. The scope of the act was simply this, that British pirates should be tried in British courts, and American pirates in American courts.

The LORD CHIEF JUSTICE. But what do you mean by "British pirates" or "American pirates"?

Mr. LUSHINGTON. Those who commit piracy within British or American jurisdiction.

Mr. Justice CROMPTON. That involves the whole question what is "within the jurisdiction"?

Mr. LUSHINGTON. Depredating on British or American vessels, as the case may be.

Mr. Justice CROMPTON. Suppose the same pirate meets and captures on the same day a British and an American vessel. Surely the essence of piracy is depredating on the ships of all nations alike, and the crime is equally against all.

Mr. LUSHINGTON. Is it not a peculiar offense against the country whose ships are taken.

Mr. Justice CROMPTON. According to the authorities the crime is against all nations, and therefore it is that all of them can try it and punish it.

Mr. Lushington went on to argue that even if we had concurrent jurisdiction there was no infraction of our sovereign rights in the surrender of the prisoners. It might safely be taken that extradition would not be unfairly or unreasonably demanded. The learned counsel went on to allude to some of the observations in the legislature at the time the act passed, but—

The Lord Chief Justice said, we cannot construe an act of Parliament by the language of those who sat in Parliament at the time it passed.

Mr. Lushington passed on to the terms of the act, insisting that they were to be construed in the largest sense.

The LORD CHIEF JUSTICE. Suppose something murder by the law of America, but not so by our law.

Mr. LUSHINGTON. In that case, no doubt, there ought to be no surrender of the prisoner. The question might have arisen in the case of Anderson if extradition had

been claimed. The case was discussed in Wheaton, who thus cited it and commented upon it:

"A case arose in 1860 on a demand for extradition, under the English treaty, of a slave charged with murder in the State of Missouri, and who had escaped to Canada. The provincial court of Queen's Bench, in refusing to discharge him, held, 'The whole argument in the prisoner's favor must rest upon the proposition that he was a slave and killed the person he is said to have done in freeing himself from slavery; and that slavery not being recognized or tolerated in this country, therefore he is not guilty of murder. But that argument is a fallacy, for the two governments, in making the treaty, were dealing with each other on the footing that each had at the time recognized laws applicable to the offenses enumerated.' The decision, however, was rendered inoperative by the subsequent grant of a writ of *habeas corpus* by the court of Queen's Bench in England." (P. 242.)

The learned counsel went on to refer to the recent case of the Brazilian pirates, brought here, tried, convicted, and sentenced in one of our courts for piracy in a British ship, and executed here, although they were in custody in Brazil, and liable to be tried there. That, he said, showed that a country might deem it of importance to have extradition of pirates although they might be tried in the country where they were found or taken.

Mr. James was then heard in reply. Addressing himself, in the first place, to the observations of Mr. Lushington, he observed that it seemed to be admitted that the case, if one of piracy at all, was one of piracy *jure gentium*. And then the question was whether there was evidence of an intent to prey on the ships of all nations or only on the ships of a belligerent. His learned friends had denied that there was any authority on the question whether acts of depredation on the ships of a belligerent were acts of piracy. But in the work of Wheaton it appeared that the case had come before the American courts and had been decided in favor of the prisoners:

"Privateersmen, acting under commissions from the president of the Confederate States, were brought into New York and Philadelphia and indicted for piracy. They were tried in October, 1861, in the United States circuit courts sitting in those places. In both courts, though the indictments included other counts, the cases went to the jury on the third section of the act of 1820, which was intended to apply to piracy as a substitute for the fifth section of the act of 1819, which defined it by a reference to the law of nations. The statute, it was maintained, embraces also cases of robbery committed on board of an American vessel, though they might not come within the definition of piracy by the law of nations. The presiding judge at New York admitted 'that if it were necessary on the part of the government to bring the crime charged in the present case against the prisoners within the definition of robbery and piracy as known to the common law of nations, there would be great difficulty in doing so, perhaps, upon the counts, certainly upon the evidence. For that shows, if anything, an intent to depredate upon the vessels and property of one nation only—the United States—which falls far short of the spirit and intent that are said to constitute essential elements of the crime. But the robbery charged in this case is that which the act of Congress prescribes as a crime, and was denominated a statute offense as contradistinguished from that known to the law of nations. The act declares the person a pirate, punishable by death, who commits the crime of robbery upon the high seas against any ship or vessel, &c., and the interpretation given to these words applies the crime to the case of depredation upon an American vessel, or property, on the high seas, under circumstances that would constitute robbery if the offense was committed on land.' (Trial of officers, &c., of Savannah, p. 371, Judge Nelson's charge.) As to the defense based on the privateer's commission, both courts held that they could only look to the declarations of the executive and legislative departments for the political relations of the new confederacy; and they did not imply, from the exercise of belligerent rights by the federal government, any renunciation or waiver of its municipal rights as sovereign toward the inhabitants of the seceded States." (*Ib.*, p. 373; Trial of William Smith for Piracy, p. 96.)

The absence of a regular commission made no difference, and a neutral state ought to presume that the act was one of warfare. If it was not so, at all events that should be shown by the parties claiming extradition. But here there was no evidence of it. The laws of the two countries differed as to piracy, and if the men were surrendered on the pretense of piracy *jure gentium*, they might be convicted, condemned, and executed for some species of piracy which was not so by our laws. What evidence was there of real actual piracy? What was there to show that the seizure was not for the belligerents? *Prima facie*, the act was one of belligerency, for it was professedly so done, and was so stated at the time. The learned counsel went on to argue that the scope of the statute was escape from justice.

The LORD CHIEF JUSTICE. May there not be an escape from justice in the sense of a failure of evidence?

Mr. JAMES. No doubt; but not in the sense in which the words are used in this act, where they plainly imply an escape by flying from one country to another. There

was no power to send witnesses over from one country to the other, and the witnesses might be here. But the statute was compulsory, and not at all discretionary; no topics of mere convenience, therefore, could be gone into. The enactment was imperative, and in cases where it applied it was absolute.

Mr. Justice Crompton observed that there were inconveniences in that view that we have bound ourselves absolutely in all cases, and must trust to the demand not being made in cases where it would not be reasonable.

Mr. JAMES. No doubt; but at all events the balance of inconvenience may be very doubtful.

The LORD CHIEF JUSTICE. As a general principle it is more convenient that offenses should be tried where they are committed.

Mr. JAMES. No doubt, as a general principle; but how to apply it in cases of piracy? The crime is committed on the high seas, and you cannot try the men there, it is clear. Why not try the men where they happen to be taken or found? Why is the matter more within the country to which the ship belonged? That is begging the question. If the act meant to divest our courts of the power of trying pirates taken here, why, of course, we were bound by it. But was it so? Were not the terms of the statute capable of a more reasonable construction? It was admitted that the other terms—arson, robbery, forgery—meant cases of exclusive jurisdiction; and why, in the case of piracy, make it include cases of concurrent jurisdiction? It was assumed on the other side that murder included all cases of murder; but this he denied, and he urged that it merely meant cases of murder within the exclusive jurisdiction of either country. No doubt the word “murder” must be taken as meaning cases of murder by the law of both countries. But the law of murder differed in the two countries in some cases, as in that of slavery. That was the case of Anderson, referred to by Mr. Lushington. He killed a man to free himself from slavery, and in America it was murder; but in England it was justifiable homicide. His extradition was claimed in Canada, but refused. So an English subject, resisting imprisonment and killing the party attempting it, would be guilty of murder by our law, but not by the law of America. Upon this subject the learned counsel referred to the case of Nash, an impressed American, on which Chief Justice Marshall delivered his opinion on the question. So much for the argument of his learned friend Mr. Lushington. He submitted that the statute was passed to prevent failure of justice in cases in which, but for extradition, justice must fail. In cases of prisoners taken in this country, the courts of this country would administer justice fairly and effectually; and it never could have been intended that this country should surrender prisoners in cases which its courts were perfectly competent to deal with. For these reasons he confidently submitted that the prisoners were entitled to their unconditional discharge.

The court retired to consider their judgment. On their return, being divided in opinion, they delivered judgments *seriatim*.

The LORD CHIEF JUSTICE. The main and principal question for our determination in this case is what construction is to be put upon the statute of the sixth and seventh of Victoria, cap. 76, which gives effect to the treaty between the United States and this country. Besides that, indeed, there are some minor points which have been raised with reference to the regularity of the proceedings. It has been objected that, prior to the issuing of the warrant by the secretary of state, there should have been depositions taken and a warrant issued in America; but it seems to me that this objection cannot be maintained. There was another objection to the magistrate's warrant; but the warrant is in strict accordance with the statute. Then comes the great question as to the construction of the statute. Now, the words are, undoubtedly, in their primary and ordinary signification, large enough to comprehend this case. Provision is made for the delivery up to justice of persons who have “committed piracy within the jurisdiction of the United States.” Now, there can be no doubt that if the case is one of piracy at all, it is piracy *jure gentium*. Nor can there be any doubt that if it was piracy it was committed on board an American ship, and so in that sense within the jurisdiction of the United States. The main argument on which reliance has been placed on the part of the prisoner is that the statute is to be read as applicable only to a case where the offense has been committed within the exclusive jurisdiction of the United States. But if the term piracy in the act is to be read as meaning piracy *jure gentium*, then it appears to me that this contention on the part of the prisoners is at once disposed of. If the contracting parties intended that such piracy should be deemed within the treaty, then—as it is clear that such piracy is not an offense against any particular state, but against the whole civilized world—then the case would not be one in which the offense was committed within the exclusive jurisdiction of the United States. So that if the word “piracy” is used in the statute in the largest sense, the case for the prisoners falls to the ground. Now, what is there to show that the term “piracy” has been used in a more limited sense? If it is to be restricted to piracy by municipal law, as a matter of peculiar jurisdiction in the courts of the particular country, then, no doubt, the statute may be construed in the sense contended for by Mr. James in his most able argument; that is, in the sense of an ex-

clusive jurisdiction in the country claiming extradition. But if that had been the intention, we should have had piracy by municipal law in some way distinguished from piracy in the larger acceptation of the term, and no such limitation occurs in the act. Why, then, should the term be taken in the limited sense? It is said, and with truth, that the mischief extradition treaties are primarily intended to prevent is that of persons committing crimes within the territory of one state, and within its jurisdiction, escaping beyond the reach of that jurisdiction, and so enjoying impunity for their offenses. But that this was the only object of such treaties I entertain great doubt, because it is impossible not to see that the mischief which it is desirable on the part of all civilized states to prevent is not limited to such cases as those which I have just suggested. It may be that the offense may be cognizable or "justiciable" in two countries—as in the case of a murder committed by one British subject upon another in the United States or any foreign country, in which case, no doubt, the criminal may be tried here. Yet it would be highly inconvenient if in any such case he must be tried in this country. For criminals—as I observed in the course of the argument—may escape, not only by going beyond the territory and the power of the law of the country in which the crimes have been committed, but also by failure of proof and the difficulty of adducing sufficient evidence, except in the country where the crimes were committed. If, then, the language of the act is large enough to comprehend both these kinds of mischief, it seems to me that it would be highly inconvenient to restrict it to the former mischief alone. It has been urged, indeed, with great force, that it is inconsistent with the dignity of this country to surrender the jurisdiction of its own tribunals in a case of concurrent jurisdiction, and allow persons who could be tried here to be carried away to be tried elsewhere. But it seems to me that the moment you say you will give up offenders with a view to promote the large interests of justice throughout the whole civilized world as a matter in which all nations have a common interest, you must then look to see what is the extent and scope of the mischief you thus desire to counteract and to prevent; and I cannot see that there is any abandonment of national dignity or honor in saying that, though there may be concurrent jurisdiction in respect of offenses which have been committed by our own subjects in foreign countries, yet if the foreign states, against whose laws the crimes have been committed, require that the criminals should be surrendered to justice, and justice can be better done in the country in which the offense is committed, then I cannot see that there is any violation of national dignity or character in doing that which is expedient and desirable to promote the interests of justice. And, looking to the general balance of convenience, I think that if the treaty and the act were not capable of the construction I feel bound to put upon them, the feeling of the country would probably be to amend them. And, as I feel strongly that the words are strong enough to include the case of piracy *jure gentium*, and see no reason for adopting a more limited construction, I think that, if there was a *prima facie* case of such piracy before the magistrate, the case comes within the act. It is impossible, in my opinion, to limit the word "jurisdiction" by the insertion of the word "exclusive," and on that point I adopt the view taken by Mr. Lush in his most able argument—that the true meaning of the word is the area over which, whether it be land or sea, the laws of the particular state prevail; and, inasmuch as it is conceded that the ship of a certain territory is, constructively, part of its territory, or, at all events, a place where its laws prevail, this ship was within the jurisdiction of the United States. I feel, therefore, bound, (though I regret to differ from my learned brethren,) in adherence to the view which I take of the statute, to hold that this case comes within it, and therefore that the prisoners are not entitled to be discharged. As to the other question, whether, supposing piracy *jure gentium* to be within the act, there was sufficient *prima facie* evidence of it, I agree in everything Mr. James said as to acts done with the intention of acting on the behalf of one of the belligerent parties; and I concur in thinking that persons so acting, though not subjects of a belligerent state, and though they may be violating the laws of their own country, and may even be subject to be dealt with by the state against whom they thus act with a rigor which happily is unknown among civilized nations in modern warfare, yet, if the acts were not done with a piratical intent, but with an honest intention to assist one of the belligerents, such persons cannot be treated as pirates. But, then, it is not because they assume the character of belligerents that they can thereby protect themselves from the consequences of acts really piratical. Now, here it is true that the prisoners at the time said they were acting on behalf of the confederates, and that was equivalent to hoisting the confederate flag. But then pirates sometimes hoist the flag of a nation in order to conceal their real character. No doubt, *prima facie* the act of seizing a vessel, saying at the same time that it is seized for the confederates, may raise a presumption of such an intention; but then all the circumstances must be looked at to see if the act was really done piratically, which would be for the jury, and I cannot say that the magistrate was not justified in committing the prisoners for trial. It is, however, unnecessary to say more upon this point, as, upon the main question, my learned brethren (for whose opinions I have the utmost defer-

ence, and who, I have no doubt, are right) are of opinion in favor of the prisoners, and therefore they will be discharged.

Mr. Justice CROMPTON. The case has been most fully and most ably argued, and it is unnecessary to say anything more on the minor points, as upon the main question the majority of the court are of opinion that the prisoners must be discharged. Taking the case as finally closed before the magistrate, their contention is that they are in illegal custody. Is there anything, therefore, that, in point of law, shows that it is illegal custody? That depends, first, on a pure question of law, on the construction of the act; and then on a question of law turning on the facts whether the evidence was sufficient to warrant a committal, supposing the case to be within the act. Upon the latter point I quite concur with my lord, because it is not for us to weigh the effect of the evidence, which is for the jury; and all we can consider is whether there was enough to justify a committal for trial, and I agree with my lord that we cannot say that there was not. But upon the other and the main question I have come, after a careful consideration of the case, to a different conclusion. The preamble of a statute is a good key to its meaning, and here the preamble of the statute points clearly to offense committed within the jurisdiction of either of the contracting states—that is, within the jurisdiction of one of them, and not of the other. And then it goes on to speak of persons who, having committed certain crimes within the jurisdiction of one of the two states, (that is, as I read it, of one of them and not of the other,) shall “seek an asylum” and be found in the territory of the other. Now an “asylum” surely means a place where the criminal is safe from prosecution or pursuit, not a place where he may be tried and convicted. The enactments of the statute apply to cases in which persons having committed murder or piracy or robbery within the jurisdiction of the United States afterward seek an asylum or are found in British territory; and it appears to me that they mean only cases of crimes committed within the exclusive jurisdiction of the United States. And that phrase, of course, could not be applied where the crime is equally within the jurisdiction of every nation in the world, as in piracy *jure gentium*. It would not be a proper use of words to say that such a crime was committed within the jurisdiction of the United States. Those words, “within the jurisdiction of either of the contracting states,” mean within the jurisdiction of either of them respectively or relatively to each other—i. e., or of one of them and not of the other. But here the crime was within the jurisdiction, not only of both of them, but of every nation in the world. Then the persons charged are to be delivered up to justice—that is, to the justice of the country where justice can be done, implying that they are in a country where it cannot be done. Otherwise, when the men were actually committed for trial in this country, they might be claimed, to be tried abroad, which surely would be a strange construction of the act. Indeed, according to that construction one does not see why they might not be claimed back again by this country. For this is clearly, if anything, a case of piracy *jure gentium*, and triable in either country. The fact that the men, being in the ship, seized it, makes no difference; it is equally piracy unless it was an act of belligerency; but if such, more so on that account than if the men had been in another ship. No doubt in either case the case would be within the jurisdiction of the United States, but it would be a jurisdiction shared equally with the whole world. Is that a case within the meaning of the act? Surely it would be a strange construction of its terms, and it must mean peculiar and exclusive jurisdiction. The case here was near American waters, but would be the same in principle if it had occurred in the Chinese Seas. Whether the act would apply in all cases, even of piracy by American subjects in distant seas, it is not necessary to determine. It is not to be lost sight of that the statute, in my view of it, carries out what was deemed by some writers to be the obligation of international law before it passed—viz., to deliver up criminals who could not be tried here. My view of the act is also confirmed by some high American authorities who have been referred to. The learned judge here referred to the following extracts from a speech of the Hon. J. Marshall, delivered in the House of Representatives of the United States in Nash's case, 5 *Wheaton's Reports*, Appendix: “The well-considered opinion of the American government is, that the jurisdiction of a nation at sea is personal, reaching its ‘own citizens only,’ and that this is the appropriate part of each nation on that element.

“A pirate, under the law of nations, is an enemy of the human race. Being the enemy of all, he is liable to be punished by all. Any act which denotes this universal hostility is an act of piracy. Not only an actual robbery, therefore, but cruising on the high seas without commission, and with intent to rob, is piracy. This is an offense against all and every nation, and is therefore alike punishable by all. But an offense which in its nature affects only a particular nation is only punishable by that nation. A statute may make any offense piracy, committed within the jurisdiction of the nation passing the statute, and such offense will be punishable by that nation. But piracy under the law of nations, which alone is punishable by all nations, can only consist in an act which is an offense against all. No particular nation can increase or diminish the list of offenses thus punishable.”

So the able judgment of Mr. Justice Nelson, in the case of *In re Kaine*, (14 *Howard's American Reports*, 137:)

"The two nations agree that upon mutual requisition by them, or their officers or authorities respectively made, *i. e.*, on a requisition made by either one government, or by its ministers or officers properly authorized, upon the other, the government upon whom the demand is thus made shall deliver up to justice all persons charged with the crimes as provided in the treaty who shall have sought an asylum within her territories. In other words, on a demand made by the authority of Great Britain upon this government, it shall deliver up the fugitive; and so in respect to a demand by the authorities of this government upon her. This is the exact stipulation entered into when plainly interpreted. It is a compact between the two nations in respect to a matter of national concern—the punishment of criminal offenders against their laws—and where the guilty party could be tried and punished only within the jurisdiction whose laws have been violated."

The Chief Justice Taney and the other judges referred to this judgment as containing an exposition of the law on which they based their own judgments, and the result is that the statute only applies in cases where justice can only be obtained by means of extradition. It is difficult to see that two great maritime nations would have given up the power of punishing pirates whenever they were caught. Take the case of a pirate taking an American, an English, and a French vessel on the same day in some of those distant seas where pirates abound. Why should not the courts of either of the three countries in which the pirates might be found do justice upon them? It is said that we must trust to the discretion of the other state that it will not demand extradition in cases where it is unreasonable to do so. But that is very dangerous doctrine, to which I cannot subscribe; and I think it is far more wise to construe the act in such a way, if we can, as to exclude cases in which the demand would be unreasonable. At first sight it certainly occurred to me that the word "piracy" in its primary sense was against my reading of the statute, but that was answered by Mr. James in his able argument, for he stated that there were some species of piracy by the municipal law of America not piracy by our law. [This part of the subject will be found elaborately expounded in the judgment of Mr. Justice Shée.] It was said by Mr. Lushington that the jurisdiction would depend upon whether the ship was the ship of one nation or of another, but that can hardly be so. It is an offense against all nations. The pirates are not English pirates or American pirates, but pirates against all nations. The principal argument in support of the committal was founded upon the fact that the ship was American, and it was argued that therefore the case was, in some peculiar way, within American jurisdiction. But I doubt that. [This part of the case will be found to be dealt with fully by Mr. Justice Blackburn.] The piracy—if piracy—was not altered in character because committed in the ship itself which was seized. Suppose the prisoners had been in a ship of their own, and sunk the other, without ever going into it: it would be the same offense, and equally, in both cases, it would be within the common jurisdiction of the courts of all nations. And it does not appear to me, therefore, that it could be said to be within the jurisdiction of the United States more than of any other country. Nor can I see that in this statute the two states have given up their jurisdiction to try pirates whenever they can take them. I think, therefore, that the case is not within the statute, and that the prisoners are entitled to be discharged.

Mr. Justice BLACKBURN. I concur with my learned brethren in thinking that the prisoners must be discharged. I think that the statute is applicable only to cases of crimes committed within the jurisdiction of one of the states, and not of the other; and that it does not apply to crimes committed equally within the jurisdiction of both. I think this is clear, whether we look to the terms of the act or to its obvious object. The main argument in favor of the opposite view is founded upon the force of the word "piracy," which it is urged, in its primary sense, means piracy *jure gentium*, and so must apply to cases within the jurisdiction of both countries, and no doubt it would include such piracy if it stood alone; but then there are the words "committed within the jurisdiction of one of the contracting states," which run through the act and are its governing words. The question is not of territorial jurisdiction, but of piracy, which is quite different. In *Kent's Commentaries* I find it written, "It is of no importance, for the purpose of giving jurisdiction, on whom or where the piratical offense has been committed; the pirate who is one by the law of nations may be tried and punished in any country in which he is found: Statutes in one country may declare an offense committed on board of one of its own vessels to be piracy, and such an offense may be punishable exclusively by the nation which passed the statute; but piracy by the law of nations is an offense against all nations, and punishable by all." Such is the law as laid down by that great American authority, and so it is laid down by our own authorities; and the treaty must be supposed to have been entered into with a full knowledge of it. Why, then, should piracy by the law of nations be deemed within the jurisdiction peculiarly of one of the two states? It would be so if it were piracy only by its own municipal law. The American citizen who has done an act declared to be piracy by American statutes would be within American jurisdiction, and the English

subject who has done an act which was declared piracy by an English statute would be within English jurisdiction; and such piracy, no doubt, would be within the treaty, and America would give up an English subject who had committed piracy by English law, and England would give up American subjects who had committed piracy by American law. But the man who has committed piracy *jure gentium* is equally within the jurisdiction of either country, and peculiarly in the jurisdiction of neither, and so is not within the meaning or the mischief of the statute. It is true there may be cases in which it may be more convenient that the prisoners should be tried in one country than in another, but this is a question not of convenience but of jurisdiction. If the case is anything, it is piracy *jure gentium*. As to the evidence, its effect would be for the jury; but though the Confederate States are not recognized as independent, they are recognized as a belligerent power, and there can be no doubt that parties really acting on their behalf would be justified. But the case is either one of piracy by the law of nations—in which case the men cannot be given up, because they can be tried here—or it is a case of an act of warfare, in which case they cannot be tried at all; and as they are now detained for the purpose of their being delivered up to the American government, they are entitled to be discharged.

Mr. Justice SHKE. We have had the advantage in this case of hearing two arguments, one on the motion for the rule, and another on the motion for the discharge of the prisoners, and I have referred to and considered the cases which have been cited and which were the same as on the former occasion. The crime with which the prisoners are charged as described in the return, and as appears on the depositions, is piracy, a crime of pre-eminent enormity, and which, by the law of nations, is punishable wherever the offender may be found. It is not, in my opinion, the crime for which, under the name of piracy, extradition is stipulated in the treaty of the 9th of August, 1842; the provisions of that treaty were not needed for, nor are they, as it appears to me, applicable to, its repression. The treaty provides that persons charged with having committed the crimes of murder, piracy, (not piracy on the high seas,) arson, robbery, or forgery, within the jurisdiction of the United States, and seeking an asylum in or found in the territories of our Sovereign, shall, on the requisition of the United States, be delivered up to justice. The object of the 10th article of the treaty, as appears from its provisions and from the title and enacting clauses of the 6th and 7th of Victoria, cap. 76, which gave effect to it, was to legalize the apprehension within the territories of the Queen of persons charged with the commission of the crimes mentioned in the treaty within the jurisdiction of the United States for the purpose of their surrender to that jurisdiction. The persons whose apprehension and extradition are contracted for by the treaty and authorized by the act of Parliament are persons "fugitive" from the justice of the United States, and "seeking an asylum," that is (but for the treaty and the act of Parliament) safe in the asylum of the territories of our Queen, because not liable to be arraigned before her tribunals. The words "surrender," "deliver up to justice," means deliver from an asylum or place of safety up to justice, that is, to the ministers of justice of the United States, by whose courts only, on the persons charged with the crimes imputed, justice can be done. Read with reference to the declared object of the treaty and the act of Parliament, and by the light which the words "fugitive," "seeking an asylum," "surrender," "deliver up to justice," afford, the words "within the jurisdiction" must, as I think, mean within the exclusive jurisdiction of the United States, and cannot be held to extend to crimes not within any jurisdiction exclusively—but justiciable wherever the person charged with having committed them may be found. It is injurious to suppose that a state should, in a public treaty, admit the possibility of its unwillingness or inability to do justice by binding itself to surrender to the justice of another state persons charged with the commission of crimes which it would be the duty of both to punish, and over which both would have jurisdiction. Had this been intended, provision would surely have been made for the case of justice by acquittal or conviction having been done by one state before cognizance of the crime taken by the other—for pleas of *autrefois convict*, or *autrefois acquit*—familiar in this case to the jurisprudence of both states, and for proof by the record of conviction or acquittal—that the crime for which the offender had been in jeopardy was the crime for which extradition was claimed. But the treaty and the act of Parliament contain no such provisions, though stipulations for the extradition of criminals had been long in force between the two governments, and the meaning of the words "within the jurisdiction" had been the subject of serious discussion between them. Upon the words, therefore, of the treaty and the act of Parliament alone I should have been prepared to hold that the words "within the jurisdiction" mean within the exclusive jurisdiction of the state requiring the extradition. We have been invited, however, to consider—and I think we must consider—the state of the law as respects piratical offenses before the date of the treaty, in order the more satisfactorily to determine to what extent the provisions of the treaty would take effect if the word "exclusive" were added to the words "within the jurisdiction," that is, first, within the exclusive jurisdiction of the United States as respects the place where the offense was committed; secondly, within the exclusive jurisdiction of the United States as respects the person

by whom the offense was committed. It will be seen, I think, on reference to the legislation of the United States, before and at the time the treaty was signed, that consistently with that legislation the words "within the jurisdiction" in both of these meanings may have, as respects offenses of a piratical character, a very extensive range, without the crime of piracy on the high seas. The Constitution of the United States gave power to the Congress to define among other crimes the crime of piracy. It was inherent in the sovereignty of the United States, as respects the subjects of the United States, to designate as piracy and punish as piracy crimes committed within its jurisdiction which were not thus piracy on the high seas, not piracy by the law of nations. The act of Congress of the 30th of April, 1790, provides "that if any person shall commit upon the high seas, or in any river, haven, basin, or bay out of the jurisdiction of any particular State, murder, or robbery, or any other offense which, if committed within the body of a country, would by the laws of the United States be punishable with death; or if any captain or mariner of any ship or other vessel shall piratically and feloniously run away with such ship or vessel, or any goods or merchandise to the value of \$50, or yield up such ship voluntarily to any pirate; or if any seaman shall lay violent hands on his commander, thereby to hinder and prevent his fighting in defense of his ship or goods committed to his trust, or shall make a revolt in the ship; every such offender shall be deemed, taken, and adjudged to be a pirate and a felon, and being thereof convicted shall suffer death. And that if any citizen shall commit any piracy or robbery aforesaid or any act of hostility against the United States, or any citizen thereof, upon the high seas, under color of any commission from any foreign prince or state, or on pretense of authority from any person, such offender shall, notwithstanding the pretense of any such authority, be deemed, adjudged, and taken to be a pirate, felon, and robber, and on being thereof convicted shall suffer death." These provisions, most of which are, with little more than verbal alteration, taken from our own statute book, include, as respects citizens of the United States, and persons owing temporary allegiance to them in return for the protection of themselves, not only piracy by the law of nations, but, as respects citizens, offenses also which are piracy because the municipal lawgivers have chosen so to call them. By an act of Congress of March 3, 1819, chap. 75, sec. 5, it was enacted that if any person on the high seas should commit the crime of piracy as defined by the law of nations, he should, on conviction thereof, suffer death. By an act of Congress of the 5th of May, 1820, it was enacted that any person who should, upon the high seas or in any open roadstead, (which has been held in the Supreme Court of the United States to be upon the high seas,) or in any haven, basin, or bay, or in any river where the sea ebbs and flows, commit the crime of robbery in or upon any ship or vessel, or upon any of the ship's company of any ship or vessel, or the lading thereof, such person shall be adjudged to be a pirate, and being convicted thereof, shall suffer death. And if any person engaged in a piratical cruise or enterprise, or being of the crew or ship's company of any piratical ship or vessel, shall land from such ship or vessel, and on shore shall commit such robbery, such person shall be adjudged a pirate, and on conviction thereof shall suffer death." It thus appears that the legislature of the United States, in framing municipal laws for the repression of offenses of a piratical character, has always kept in view and made special mention of "piracy on the high seas," grouping with it, however, a large class of offenses which bear a strong family resemblance to it within the territorial jurisdiction, but which are not piracy by the law of nations—viz, "robbery in any river, haven, basin, or bay out of the jurisdiction of any particular State of the United States, upon any vessel or upon the lading or ship's company of any vessel in any open roadstead, haven, basin, or bay, or in any river where the sea ebbs and flows." On land if the robbery be committed by persons engaged in a piratical cruise or enterprise, or being of the ship's crew or ship's company of any piratical ship or vessel, who shall land from such ship or vessel and on shore commit such robbery, many of the crimes thus defined, though included in a list at the head of which is "piracy on the high seas," and classed with it as equal in guilt and deserving of equal punishment, differ from it in the essential particular that they are not committed on the high seas, but within the territorial jurisdiction of the United States; and being committed within the territorial or personal jurisdiction of the United States, they are thus offenses not against our laws, (though we have laws to the same effect,) but against the laws of the United States. Regard being had to this legislation, which must have been in full view of the American minister who negotiated this treaty, it is a remarkable feature of the treaty, tending strongly to show that "within the jurisdiction" means within the exclusive jurisdiction, territorial or personal, of the United States, that, though "piracy" committed within the jurisdiction of the United States—and, as if to avoid all cavil as to its meaning—"robbery" are mentioned, piracy on the high seas—piracy by the law of nations—has been omitted. For these reasons I am of opinion that the true reading of the words "within the jurisdiction" is within the exclusive jurisdiction of the state requiring extradition.

The LORD CHIEF JUSTICE. I wish to add that one of the grounds of the conclusions to which I came was that if we are to construe the statute as applying only to cases of

exclusive jurisdiction, this consequence would follow—that wherever an English subject has committed in America a crime for which he could be tried there, although he could also be tried here, he could not be given up. I do not think the legislature could have contemplated a result so mischievous. However, as the majority of the court are of an opposite opinion, the prisoners must be discharged.

The master of the Crown office (Mr. Norton) stated that an order would at once be made out for their discharge. They appeared greatly relieved by the result, which may be readily conceived when it is stated that simple piracy is capital in America, though it is not so in this country. The pirates lately executed were tried for murder.

CASE OF THE ROANOKE.

[From British Blue Book, "North America," No. 1, 1865, (Appendix A,) pp. 87-90.]

No. 1.

Lieutenant Governor Hamley to Mr. Cardwell.

[Extract.]

*BERMUDA, October 28, 1864.

About the 6th instant, rumors were in circulation of an American ship of war, then said to belong to the United States, hovering about our coasts. On that day the consul for the United States of America informed me that the ship said to be in the offing belonged to the Confederate States; that there was an intention to coal and man her by stealth from Bermuda, and that an enlistment for a warlike purpose had taken place in these islands.

This information was unsupported by such testimony as would have warranted the interference of the executive government, and was, moreover, vague and obscure. So many rumors, however, of clandestine proceedings seemed at any rate to call for vigilance, and I accordingly notified to the police magistrate and revenue officer at St. George's that I had reason to suspect that a breach of the foreign enlistment act had taken place, or was intended. I desired the former officer to enjoin on the police the utmost vigilance to prevent a breach of the law, and the latter to take measures for preventing any steamer from leaving St. George's Harbor on the night between the 6th and 7th without being searched. I also warned a military party to be in readiness to support the civil power if necessary.

I continued in correspondence with the United States consul, and with the police magistrate and revenue officer, up to the 8th instant, but received no evidence sufficient to justify the application of the power of the law.

At midnight, between the 8th and 9th instant, I was informed by express of the brigantine *Mathilde* having returned to the port of St. George's, forcibly laden with the crew, passengers, baggage, &c., of the United States mail steamer *Roanoke*, which had been captured at sea by persons who had gone on board her as passengers, but who afterward turned out to be in the service of the Confederate States. The story as it first reached me was unsupported by legal proof; but early on the morning of the 9th, the United States consul arrived at government house bearing a protest, made before a notary by the chief mate and the purser of the United States steamer *Roanoke*, against the seizure of that ship by one Brain and others, on the high seas.

While the consul was with me, I was informed by telegram that the *Roanoke* had been set on fire, and that her officers and crew had landed.

Immediately after dismissing the United States consul, I consulted the attorney general. I then decided to go forthwith to St. George's, accompanied by that officer.

While on my way thither, I was informed by express that certain persons who had landed from the burning ship had been taken into custody by the police on suspicion, and in obedience to my general instructions of the 6th instant; also that a quantity of cigars had been seized.

About midday of the 9th, I arrived at St. George's, accompanied by the attorney general. This brings the account down to the term at which the attorney general's report takes it up.

It remains to be told in connection with the proceedings that, on the 12th instant, the United States consul addressed to me a letter complaining that he had, on the 10th instant, made a request to the police magistrate that the persons implicated in the above affair should be arrested and dealt with in accordance with the 10th section of the treaty made August 9, 1842, between her Majesty's government and the government of the United States of America; and that he has inclosed an affidavit setting forth his belief in a charge of piracy against them, but that he was not aware that any action had been taken in the matter, and that the parties were still at large. In reply, I

informed the consul that, having referred his letter, and also an explanatory one from the police magistrate, to the attorney general, I was advised that the course pursued by him was not such as would warrant me in taking a proceeding under the treaty referred to. I also informed him of the investigation which had taken place, the effect of which had been to show that even if he had in every respect complied with the requisites to an effectual application, and if I had, after the recent decision in England on a similar question, felt justified in issuing my warrant to the magistrates, the result must have been, after perhaps a more protracted inquiry, the liberation of the persons charged by him with piracy.

Another fact of which you should be made aware is, that before I proceeded with the attorney general to St. George's on the 9th instant, as above stated, I wrote to the senior naval officer requesting him, if possible, to send a steamer of war to St. George's. I did this under the impression that it might be desirable to prevent the escape of persons implicated in an illegal transaction, or whose evidence would be essential. No steamer came thither until evening, but in the evening her Majesty's steamer *Steady* came into Bermuda, and on her arrival at the dock-yard was immediately sent back to St. George's and remained in Murray's anchorage all night. No detention of any ship or person took place. She did not proceed to her destination (Halifax) until the senior naval officer had ascertained from me that I no longer saw reason to detain her.

Considering that the capture of the *Roanoke* may form the subject of communication from the American Secretary of State to Lord Lyons, I have thought it right to furnish his lordship with a correct account of the transaction, and with copies of some correspondence which passed between the consul of the United States of America and myself.

[Inclosure.]

The Attorney General, Bermuda, to Lieutenant Governor Hamley.

[Extract.]

HAMILTON, Bermuda, October 24, 1864.

I have the honor to report to your excellency the proceedings connected with the case of the *Roanoke* from the time when it came officially into my hands.

On Sunday, the 9th instant, your excellency judged it expedient to go to St. George's, in order that you might obtain prompt and accurate information on the spot about a case not only involving many novel and complicated questions, but assuming every hour some new feature of difficulty, and at your excellency's suggestion I accompanied you.

On arriving we found that the police had in custody twenty-two men, thirteen of whom had been arrested during the preceding night on landing from the *Roanoke*, then in the offing, and nine others on Sunday morning as they were coming on shore from the same vessel, which was then seen to be on fire.

It became necessary to determine at once what was to be done with the prisoners, and not being prepared at the moment to take the important step of advising their immediate release, I requested Mr. Hyland, the police magistrate and justice of the peace, to detain them on a charge of piracy until a hearing could take place.

The next day, Monday, I again went to St. George's, and the prisoners were brought before Mr. Hyland and another justice of the peace, and though they made at once an objection to the jurisdiction through their counsel, relying on their public character as commissioned officers of the Confederate States, the case was proceeded with so far as to obtain an outline of the capture from the chief officer and purser of the *Roanoke*, and of the arrest of the prisoners from the chief police constable.

The circumstances appeared to be as follows:

The United States mail steamer *Roanoke*, with a crew of fifty men, all told, about thirty-five passengers, mails, and a small cargo, left the Havana for New York at 5 p. m. on the 29th September, 1864. She had been out five hours, and was about twelve miles from the coast of Cuba when, it being the chief officer's watch on deck, two or three passengers quitted a group near the pilot-house, went up to the chief officer and presented revolvers, demanded his surrender to the Confederate States, and threatened to shoot him if he resisted.

He surrendered, was put in irons and conveyed into the saloon, and in about fifteen or twenty minutes all the other ship's officers having in a similar manner been surprised in their berths, were brought handcuffed into the saloon.

No resistance was offered, and no attempt was made to recapture the vessel.

The ship's officers were paroled, and their irons were removed every day and replaced every night on all except the captain and purser.

The original crew continued under persuasion or compulsion to work the vessel under Mr. Braine, the leader of the capturing party.

Braine himself, Mr. Little, and Mr. Parr, were the chief captors, and they had gone on board as passengers while the Roanoke was under way in the harbor at the Havana, only one of them, Mr. Braine, being furnished with the ticket required from passengers by the regulations to obtain which a passport is necessary.

They were received on board by the purser, to whom Braine handed his ticket, and who deposed that Braine had been a school-fellow of his some eighteen years ago in Brooklyn; that from that time until he came on board he had never seen Braine, and that he recognized his features on seeing him again.

The only person on board the Roanoke who showed any disposition to resist seems to have been the carpenter, and he was shot down and thrown overboard.

Immediately after the capture, Mr. Braine made for Bermuda with his prize, and arrived off the islands on the afternoon of the 4th instant, took a pilot, and after dark that evening came to anchor in Five-Fathom Hole.

Brain then went ashore to St. George's, but returning to the Roanoke before daylight, got under way, and proceeding to sea, hove-to out of sight from the land all that day.

At daylight on Thursday the Roanoke again ran out to sea, and she hovered round the islands all that day, but stood in toward the land at night. She then fell in with a brig called the Village Girl, from which she received provisions and about twenty or thirty men, who had been engaged at St. George's a day or two previously for service on board a confederate vessel. The thirteen men first arrested by the police were of this party.

During the next day, Friday the 7th, the Roanoke hovered round these islands in company with the Village Girl, and endeavored to take coal on board by means of the steamer's boats. She received ten or fifteen tons.

At night she again ran in toward land, and by a preconcerted signal fell in with the Danish brigantine Mathilda, Pieper master, which had just left St. George's ostensibly for Halifax, and to her were transferred the passengers, officers, and crew of the Roanoke, with their baggage.

The Mathilda came to anchor in Five-Fathom Hole, and sent these people ashore, and then proceeded to Halifax, having on board, it is supposed, the specie captured in the Roanoke, amounting to some twenty thousand dollars.

The agent or consignee of this vessel, the Mathilda, who also was the charterer for the voyage to Halifax, was the Mr. Johnson above mentioned as being one of the persons who visited the Roanoke in company with Major or Mr. Black. Johnson went from this to Halifax in the Mathilda.

On Saturday the captors resolved to burn their prize, and that night they sent ashore the men who had been engaged at St. George's to work her, and on Sunday morning they set fire to the ship, and abandoning her, landed at St. George's.

Their reasons for this are said to have been the impossibility of getting on board at sea sufficient coal to run her into Wilmington, and the intelligence they received here of the increased severity of the blockade.

This brings us down to the time of their arrest. The men who landed during Saturday night were known to have been engaged at St. George's for service, and those who came on shore on Sunday morning were in general heavily armed, one man having three six-barreled revolvers concealed about him, another carrying two similar weapons, and the rest one each. Some of these fire-arms were loaded and capped, but those carried by Mr. Braine's own party had, by his orders, been discharged before they reached the shore.

All the people belonging to the Roanoke, except the carpenter, appear to have been well treated by their captors.

The cigars, which formed a chief part of the cargo, were brought on shore in large quantities by the men who landed, and, not being duly entered, were seized by the revenue officers, some in the possession of Braine and his companions, others concealed on board a blockade-running steamer in harbor consigned to Mr. Black, and others again in obscure nooks and cellars, and in empty tents, in and about St. George's.

The proceedings before the magistrates lasted three days. On the second and third of these days I was represented, with your excellency's sanction, by Mr. Richard Darrell, a barrister here, it being impossible for me to attend personally, and the solicitor general having been retained for the prisoners.

On the third day of the inquiry, the warrant or commission, and the instructions on which Mr. Braine and his comrades relied as giving to their capture a warlike in lieu of a piratical character, were satisfactorily proved to be genuine; and all the prisoners were thereupon at once discharged.

Before leaving the court, Mr. Braine expressed to Mr. Darrell his gratification at the respect which had been shown to the commission which he, Mr. Braine, carried.

It is sufficiently plain that, under these circumstances, the charge of piracy could not be sustained.

But it seems to be equally clear that a systematic violation of the foreign enlistment act has been carried on in these islands, though as yet I have not obtained sufficient legal testimony to support the charge.

Independently, however, of any breach of the letter of that act, which may or may not be brought home to any individual, there are points in and connected with this enterprise to which your excellency will no doubt think it right to call the special attention of her Majesty's government.

Mr. Braine's warrant as acting master in the Confederate States navy, and his orders to capture the *Roanoke*, were dated at Richmond, where he seems to have been then, the 26th May, 1864. Very soon after that he was in Bermuda, and there is strong reason to believe that it was here that he organized the plan which was consummated on the 29th September.

The capture having been effected, it was to Bermuda that he repaired with his prize, and here he communicated personally with people on shore on the night of the 11th October, and for three succeeding days and nights he hovered on our coasts, sometimes under cover of darkness availing himself of our anchorages, and receiving provisions and men from these islands by means of the *Village Girl*.

It was to our shores he sent his prisoners, and when from adverse circumstances compelled to abandon his prize, it was here that he and his companions in arms sought an asylum for themselves, and a depository or hiding place for their booty.

Lastly, if rumor may be credited, on being discharged from custody, they celebrated their escape with wine and noisy conviviality, openly boasting to their guests that very soon their exploit would be repeated.

[From British Blue Book, "North America," No. 1, 1865, (Appendix A,) pp. 90-92.]

No. 2.

Lord Lyons to Earl Russell.

WASHINGTON, November 15, 1864.

MY LORD: I have the honor to inclose copy of a dispatch and its inclosures which I have received from the lieutenant governor of Bermuda, relative to the recent capture of the United States mail steamship *Roanoke*, on her recent voyage from Havana to New York, while ten or twelve miles from the former place, by a party of secessionists, and which bears close analogy to the capture in the same way of the *Chesapeake*. Possibly some communication may be made to your lordship through Mr. Adams in London, as none has been received at this legation.

The attorney general of the colony gave it as his opinion that the parties implicated could not be given up under the treaty of 1842, which Mr. Allen the United States consul, had invoked, grounding it on a previous decision in a similar case given in England.

The lieutenant governor states that they were accordingly dismissed after a hearing, and on producing a commission from the Confederate States authorities, as it was made clearly to appear that the commission and instructions relieved them from personal responsibility to neutral nations.

I have, &c.,

(For Lord Lyons.)
J. HUME BURNLEY.

[Inclosure No. 1.]

Lieutenant Governor Hamley to Lord Lyons.

BERMUDA, October 29, 1864.

MY LORD: It has been represented to me while tracing for the secretary of state for the colonies an account of the incidents connected with the recent burning of the steamer *Roanoke* in these waters, that your lordship would probably receive communications on this subject from the government of the United States of America, and that it is desirable that you should be correctly informed concerning it.

I have the honor, therefore, to transmit herewith an extract from the *Bermuda Gazette* of the 25th instant, containing a sketch of the affair which is not far from the truth.

Your lordship will note the extreme ease with which the capture of the *Roanoke* was effected by some very few persons against a crew and passengers numbering eighty-five.

I append to this communication copy of a correspondence between the consul at Bermuda for the United States of America and myself, that gentleman having wished to put in force the treaty between her Majesty's government and the United States of America, dated 9th August, 1842, with regard to the captors of the *Roanoke*.

The consul, Mr. Allen, has more than once represented to me the difficulties which lie in his way when investigating here any transactions by or belonging to the belligerents in America. I must state my full belief in these difficulties, for the sympathy of a very large portion of our population with the southern States is not concealed, and I have not failed to observe how, in spite of unfriendly feeling, Mr. Allen has labored almost single-handed in the interests of his government.

I have, &c.,

W. G. HAMLEY.

[Inclosure No. 2.]

Mr Allen to the Lieutenant Governor of Bermuda.

UNITED STATES CONSULATE,
Bermuda, October 12, 1864.

SIR: On the 10th instant I made a request to W. C. J. Hyland, esq., police magistrate of the town of St. George's, that certain persons connected and implicated in what I believed to be an act of piracy, committed on board the United States steamer Roanoke, of New York, said persons then being in the town of St. George's, within the jurisdiction of the said magistrate, that they be arrested and dealt with in accordance with the tenth section of the treaty made August 9, 1842, between her Majesty's government and the government of the United States of America; with the said request I inclosed an affidavit setting forth the belief that such an act had been committed by the parties therein named.

I beg to inform your excellency that I am not aware any action has yet been taken upon the matter, and that the parties alluded to are now at large within the jurisdiction of the said magistrate.

I have, &c.,

C. M. ALLEN.

[Inclosure No. 3.]

Lieutenant Governor Hamley to Mr. Allen.

MOUNT LANGTON, October 16, 1864.

SIR: I have the honor to acknowledge the receipt of your letter of 12th instant, in which you inform me that you had requested Mr. Hyland, the police magistrate at St. George's, to cause to be arrested certain persons connected with and implicated in what you believe to be an act of piracy, and that these persons should be dealt with according to the tenth section of the treaty made August 9, 1842, between her Majesty's government and the government of the United States of America; in which you also inform me that with your request to Mr. Hyland you had inclosed an affidavit setting forth your belief of the matters stated, and in which you conclude by saying that you are not aware that any action has yet been taken in the matter, and that the suspected persons are still at large.

Having referred to the attorney general your letter, and one from Mr. Hyland of the same date on the same subject, covering your letter to him of the 10th with the accompanying affidavit, I am advised that the course adopted by you is not such as would warrant me in taking any proceeding under the treaty referred to.

It may, however, afford you some satisfaction to be informed that an investigation has been held by two magistrates, (of which you are probably not altogether ignorant,) the effect of which has been to show that even if you had in every respect complied with the requisites to an effectual application, and if I had, after the recent decision in England on a similar question, felt justified in issuing my warrant to the magistrate, the result must have been, after perhaps a more protracted inquiry, the liberation of the persons charged by you with piracy.

These persons were, after a hearing, and the production of a commission from the Confederate States authorities, dismissed on the 12th instant, as it was made clearly to appear that, whatever opinion might be entertained of the propriety of their conduct, the commission and instructions relieved them from personal responsibility to neutral nations.

I have, &c.,

W. G. HAMLEY.

[From British Blue Book, "North America," No. 1, 1865, (Appendix A.), pp. 92-93.]

No. 3.

Lord Lyons to Earl Russell.

WASHINGTON, November 18, 1864.

MY LORD: With reference to my dispatch of the 15th instant, inclosing to your lordship copies of a correspondence received from his excellency the lieutenant governor of Bermuda, relative to the capture of the Roanoke by a party of secessionists, I have the honor to inclose an extract taken from the Daily Morning Chronicle of this city, giving a summary of the proceeding before the law courts at Bermuda, and the wording of the commission of Captain Braine, signed by the confederate secretary of the navy.

I have, &c.,

(For Lord Lyons,)

J. HUME BURNLEY.

[Inclosure.—Extract from Daily Morning Chronicle of November 17, 1864.]

THE CAPTURE OF THE ROANOKE—EXAMINATION OF THE PIRATES.

The Bermuda Advocate of the 12th of October contains a synopsis of the proceedings of the court of Bermuda, in the case of Acting Master John C. Braine, Confederate States navy, on the charge of the burning of the federal steamer Roanoke, and his discharge, together with the discharge of his associates. The case, divested of all belligerent bias, appears to have been simply this:—

The Roanoke, a federal steamer plying between Havana and New York, left the former port on the 29th of September, and when at sea was suddenly captured by a number of her passengers, who turned out to be officers and men of the Confederate States, their commander being Captain Braine, well known in the case of the Chesapeake.

The original intention was to carry the prize into Wilmington; but wanting provisions, coal, and men, she was brought to the neighborhood of our islands in order to obtain all three. Here the attempt to carry her into Wilmington being considered hopeless, she was set on fire Sunday morning at 4 o'clock, and her passengers and crew landed here, taxing the exertions of the United States consul rather heavily to provide for the wants of such of them as were subjects of his government. The captors also landed here, and were not a little surprised to find themselves immediately handed over to the hospitalities of our jail, whither they were committed *en masse*, on a charge of piracy, and, as it was at first alleged, of murder too—it being stated that one of the officers had been shot, but, on examination, it turned out that the charge was not included in the warrant.

This capture took place on Sunday morning, and the captive captors being refused bail, became inmates of the jail up to Wednesday, being brought out daily for so many hours as it might suit official convenience to spare for the examination of officers and gentlemen charged with the same sort of offence as was in the habit of being committed in old days by Nelson and Collingwood, and Hood and Howe, and other officers whose names have, somehow or other, come to be handed down to us with some sort of historic fame, rather more to their credit than being pounced upon in an out of the way colony, where illegal acts may be committed with very slow chances of visitation and made, Samson-like, the sport of local beadledom.

The proceedings before the magistrates were practically confined to taking the evidence of five witnesses. The first two were the officer and purser of the ship, who deposed to her capture in the way we have indicated. The third was the inspector of police, merely called to prove the capture of the confederates, and the other two proved the handwriting of the secretary of the Confederate States navy to commissions and letters of instruction directed to Captain Braine.

The attorney general appeared on the first day, but deputed Mr. Richard Darrell to represent him on the succeeding ones.

The commissions and letters of instruction having been duly verified, Mr. Darrell withdrew the charge, Captain Braine and his officers and men having spent three nights in a British jail, on a charge admitted to be untenable, and bail refused.

Captain Braine's commission was produced, and his letter of instructions from the secretary of the Confederate States navy. The signatures of Mr. Mallory were proved by Mr. Fry.

The letter of instruction was as follows:

"CONFEDERATE STATES OF AMERICA, NAVY DEPARTMENT,
"Richmond, May 26, 1864.

"SIR: You will herewith receive an appointment of acting master in the navy, and will proceed to Wilmington and there make the necessary arrangements to capture upon

the high seas the federal steamer *Roanoke*, or the steamers *Morning* or *Evening Star*, all of which vessels are on a line running between New York and Havana.

"In case you succeed in capturing either of the above steamers, you will bring her and the prisoners of war to a confederate port.

"The strictest regard for the rights of neutrals and neutral property must be observed, and discipline and subordination preserved among officers and men under your command, as a matter of security and success.

"You are authorized to appoint three acting master's mates, and three acting third assistant engineers, reporting their names to the department as early as practicable, and you will also report your proceedings under this order.

"I am, &c.,

"S. R. MALLORY,
"Secretary of the Navy.

"JOHN C. BRAINE,
"Acting Master C. S. N., Richmond, Va.

"If the prisoners cannot be sent into the confederacy you will parole them, taking their parole in writing, embracing the rank, grade, name and age, and taking their pledge not to serve against the Confederate States during the war, unless regularly exchanged.

"S. R. MALLORY, Secretary."

Mr. Seward to Mr. Adams.

No. 1165.]

DEPARTMENT OF STATE,
Washington, November 30, 1864.

SIR: I inclose herewith a copy of the correspondence which has taken place between Mr. Allen, United States consul at Bermuda, and the authorities of those islands, relative to the capture of the steamer *Roanoke* by the insurgents. You are instructed to make known to her Britannic Majesty's government the facts therein mentioned, and to protest against the proceedings at Bermuda in enlisting the men and discharging the accused parties; the protest to apply particularly to Braine, who was concerned in the affair of the *Chesapeake*, and whose delivery was refused.

I am, sir, your obedient servant,

WILLIAM H. SEWARD.

CHARLES FRANCIS ADAMS, Esq., &c., &c., &c.

[For inclosed correspondence see despatch from Mr. Adams to Mr. Seward, No. 836 of December 22, 1864, *post*.]

[From British Blue Book, "North America," No. 1, 1865, (Appendix A.) p. 93.]

No. 4.

Earl Russell to Lord Lyons.

FOREIGN OFFICE, December 17, 1864.

MY LORD: Her Majesty's government have had under their consideration, in communication with the proper law advisers of the Crown, your lordship's dispatches of 15th and 18th ultimo, together with other papers which have been received from the acting governor of Bermuda, on the subject of the application made by the United States consul at that island for the extradition of certain persons who, having captured the United States mail steamer *Roanoke*, on which they had embarked as passengers, burnt that vessel and came ashore there.

I have now to state to your lordship that her Majesty's government are of opinion that subject to the question which seems to have existed as to the magistrate's jurisdiction, Captain Braine and the men under his orders were not improperly arrested upon the charge of piracy, but that the attorney general of Bermuda properly withdrew the charge on the production of the commission to Captain Braine from the government of the so-styled Confederate States.

Her Majesty's government also consider that these persons could not have been delivered up under the extradition treaty to the consul of the United States, even if his application had been made in proper form.

I am, &c.,

RUSSELL.

Mr. Adams to Mr Seward.

[Extracts.]

No. 836.]

LEGATION OF THE UNITED STATES,
London, December 22, 1864.

SIR: I have to acknowledge the reception from the department of dispatches numbered from 1165 to 1182, inclusive.

In accordance with the instructions contained in No. 1165, of the 30th November, I have sent to Lord Russell copies of the papers inclosed, and have addressed to him a note containing a protest against the proceedings at Bermuda as desired by you. A copy of my note is transmitted.

I have the honor to be, sir, your obedient servant,

CHARLES FRANCIS ADAMS.

HON. WILLIAM H. SEWARD,
Secretary of State.

*Mr. Adams to Earl Russell.*LEGATION OF THE UNITED STATES,
London, December 21, 1864.

MY LORD: I have the honor to submit to your consideration copies of a correspondence which has taken place between Mr. Allen, consul of the United States at Bermuda, and the authorities at that island, relative to the case of the steamer Roanoke.

I am instructed by my government to enter a protest against the proceedings therein described, so far as they relate to the enlistment of men, and the discharge of the parties concerned in the outrage. I am directed to specify most particularly the man Braine, already well known to the British authorities as having been engaged in a similar affair against the steamer Chesapeake in another portion of her Majesty's dominions, from the proper consequences of which he was suffered to escape. It would appear from the evidence that in the last case, and in the former one, he had accomplices among the inhabitants of the place.

I pray your lordship to accept the assurance of the highest consideration with which I have the honor to be, my lord, your lordship's most obedient servant,

CHARLES FRANCIS ADAMS.

Right Hon. EARL RUSSELL, &c., &c., &c.

Mr. Allen to Mr. Seward.

No. 142.]

CONSULATE OF THE UNITED STATES OF AMERICA,
Bermuda, October 28, 1864.

SIR: I have the honor to inclose herewith copies of all the correspondence between myself and the authorities of these islands in relation to the Roanoke affair, numbered from one to five, with copies of the inclosures they contained annexed. It will, I trust, be obvious from this correspondence that all I could do under the circumstances was done to bring these men to justice.

The real facts of the case, though no doubt known from the first to many in this town, were studiously concealed from me; and even after the arrest was made, no official intimation was conveyed to me of the nature of the charge on which they had been arrested, nor was I requested to attend the examination. I was thus left to get at the matter as best I could, and under many disadvantages. It is, however, equally obvious that had I been in full possession of all the facts, from the first, and been able to make my application at an earlier stage of the proceedings, or to make any other kind or form of application, the result must have been precisely the same, as the decision came to by the authorities here was based, not on any deficiency or error in the steps taken by me, but simply on the isolated ground that the acts proved did not, in the opinion of the law officer of the Crown, amount to enough to establish the charge made, and consequently could not come within the provisions of the treaty of August 9, 1842.

This is evident from the fact that the accused were liberated, not on a decision of the magistrates, but on the withdrawal of the complaint by the attorney general.

I am, sir, your obedient servant,

C. M. ALLEN, *Consul.*

HON. WILLIAM H. SEWARD,
Secretary of State.

Mr. Allen to Mr. Hamley.

No. 1.]

CONSULATE OF THE UNITED STATES OF AMERICA,
Bermuda, October 6, 1864.

SIR: I have the honor to inclose herewith the affidavit of one Robert Devine. Believing the facts therein set forth to be in contravention of the foreign enlistment act, I would respectfully request your excellency to take such immediate action as to prevent all persons being enlisted in these islands for such belligerent purposes.

I have the honor to be, sir, your obedient, humble servant,
C. M. ALLEN, *United States Consul.*

His Excellency W. G. HAMLEY,
Lieutenant Governor, Commander in Chief, &c., Bermuda.

[Inclosed with No. 1.]

Affidavit of Robert Devine.

I hereby declare that I have this day been shipped by and before Mr. Black, to join some confederate vessel now in the offing, to proceed to Wilmington. I signed articles, but the name of the vessel was not filled in. Some eighty or ninety other persons have also shipped for the same vessel. I was told by Mr. Black that he wanted no man who could not fight, or who was afraid of gunpowder, as they would have to fight their way to Wilmington.

ROBERT DEVINE.

Delivered before me this 6th October, 1864.

W. C. J. HYLAND, J. P.

[Reply to No. 1.]

Mr. Hamley to Mr. Allen.

MOUNT LANGTON, *October 6, 1864.*

SIR: In reference to the letter and inclosure which you placed in my hands this afternoon, I beg to inform you that, after giving the matter all the consideration of which the time has admitted, I do not find sufficient evidence of any fact on which I can exercise executive authority or interposition, although there is enough to excite that vigilance which I will take care to exercise with regard to it.

As I cannot, in a case like this, act without convincing written testimony, and as I must, of course, rely principally upon your activity to obtain the required evidence, I must request you to furnish me, in writing, with as early and authentic information on this point as you can possibly obtain.

Although I thus claim your energetic assistance, be assured of my using every means in my own power to prevent a breach of the foreign enlistment act, or of the neutrality prescribed by her Majesty's government.

I have the honor to be, sir, your most obedient servant,

W. G. HAMLEY,
Lieutenant Governor and Commander-in-Chief.

C. M. ALLEN, Esq.,
Consul for the United States of America, St. George's.

Mr. Allen to Mr. Hamley.

No. 2.]

UNITED STATES CONSULATE,
Bermuda, October 7, 1864.

SIR: I have the honor to acknowledge the receipt of your excellency's letter, dated the 6th instant, in which you informed me that you do not consider the evidence I produced sufficient to enable you to exercise executive authority.

I labor under the disadvantage of not having access to any copy of the foreign enlistment act, and to some extent, therefore, write under obscurity; but if the fact of one or more confederate war vessels being in the immediate neighborhood of these islands; of one or both making a nightly visit to Five-Fathom Hole, and being there visited by the person acting as confederate agent; of coals and other supplies being sent out there to them by a well-known firm in this town; of men being enlisted for them by the

so-called confederate agent, and, when reported as communicating with myself, being stripped in the presence of that agent, by his direction, and being searched for a protection or some other paper—if these circumstances, or any of them, notorious now in the town, constitute a breach of the act in question, I have to submit that such a breach has been palpably made. I shall persevere in my endeavors to obtain such further evidence as may enable your excellency to feel yourself justified in taking action; but I need hardly point out that, situated as I am here, with the general policy of the community adverse to the cause I have the honor to represent in these islands, every difficulty will be thrown in the way of my obtaining it, and I can hardly hope for any but circumstantial evidence.

I have the honor to be, sir, your most obedient servant,

C. M. ALLEN,
United States Consul.

His Excellency W. G. HAMLEY,
Lieutenant Governor and Commander-in-Chief, &c., Mount Langton.

Mr. Allen to Mr. Hamley.

No. 3.]

CONSULATE OF THE UNITED STATES OF AMERICA,
Bermuda, October 8, 1869.

SIR: I have the honor to inclose herewith evidence, which in my opinion is conclusive, to the extent of showing that an act of piracy has been committed on board an American vessel now in the immediate vicinity of these islands. Should your excellency deem the evidence inclosed sufficient to enable you to take action in the matter, I beg to request that the steamship in question may be brought into port here at the earliest possible opportunity, and a proper examination instituted.

I have the honor to be, sir, your obedient servant,

C. M. ALLEN,
United States Consul.

His Excellency W. G. HAMLEY,
Lieutenant Governor and Commander-in-Chief, &c., Bermuda.

[Inclosure with No. 3.]

BERMUDA, ALIAS SOMERS'S ISLANDS.

By William Christopher John Hyland, a notary public in and for the islands of Bermuda, and all other of her Majesty's dominions and territories, duly commissioned and sworn.

[L. S.]

W. C. J. HYLAND,
Notary Public.

To all to whom this present writing or instrument of protest shall come, greeting :

Know ye, that on the day of the date hereof, personally appeared before me Edward Dingle Nichols, late chief officer of the steamship Roanoke, of the city of New York, in the United States of America, and Frank Edward Hawley, late purser of said ship, who on oath say, that on the 29th of September last they left the city of Havana, in Cuba, laden with an assorted cargo, and about forty passengers; that on the same day of the month, when they had been at sea about five hours, a man named Braine, alias Johnson, lately implicated in the seizure of the steamship Chesapeake, of New York, assisted actively by about nine other persons, violently and by force of arms, when Captain Drew and most of the other officers were asleep in their state-rooms, seized the steamship Roanoke, and placed the said Captain A. Drew, with the whole of the ship's company, (the firemen excepted,) in irons; that while so engaged they killed the carpenter of said steamship, by shooting, and also wounded the third engineer; that they then proceeded and made the island of Bermuda on the 4th day of October, instant, and took a pilot-boat on the evening of that day; that they proceeded to the east end of these islands and anchored in or near to Five-Fathom Hole, about eight past meridian of that day, and there remained until about half-past 3 o'clock of the following morning; that at about 9 o'clock, just after anchoring, the said Braine left the ship in the pilot-boat and proceeded on shore, in the direction of the town of St. George's; that at about 3 o'clock on the following morning the said Braine again returned to the said steamship, accompanied by four or five other persons from the shore; that they soon after weighed anchor and proceeded seaward; that on the night of the

5th instant the vessel was again brought and anchored in Five-Fathom Hole, or its vicinity; that at about 11 o'clock on the same night, five or six persons again came on board from the shore; that one of the said parties was recognized by a passenger, B. B. Blydenbaugh, as Joseph Johnson, a merchant of the town of St. George's; that they heard one of these parties, whom they have every reason to believe is named Black, tell the present purser of the said ship, one Jashoop, that the brig would not be out with coals and provisions until the following day; that they shortly left the ship, and she again proceeded seaward, but again returned towards the land as night closed in; that at about 8 o'clock p. m. of the 6th of October they made a brig with a light at her foremast head, and they spoke her about eight or ten miles from the land off the light-house, and she was ordered to heave to until daylight; that a boat was sent on board of her from the said steamship, and she returned soon after with sundry provisions; that on that night and following morning about forty men were sent on board the steamer from the said brig, and which proved to be the Village Girl, of Whitehaven; that all day of the 7th October was employed transporting coals and provisions on board the said steamship from the said brig Village Girl; that the said Braine and other officers informed them on that day that a brig with a black ball in her fore-top-sail would come and take off the passengers of the Roanoke, and proceed to Halifax with them; that they kept a look-out all that day, expecting said brig to appear; that at about 5 or 6 o'clock of the same evening a sail was made to the westward, when they stopped coaling, and immediately made for it; on getting near her they hailed her, and ordered her to heave to, and at the same time asked her name, and if she had a black ball in her fore-top-sail. On finding it was not the vessel expected, the brig was told to proceed on her voyage, and the said steamship again returned to the Village Girl and took in further coal; that on or about 8 o'clock p. m. of that day they made another vessel, upon which they bore down to her; she also had a light at her foremast head; that at about 10 o'clock p. m. of same night they commenced putting the baggage of the passengers on board the said brig, and at 11 o'clock the same night the passengers and all of the crew of the said steamship, with the exception of three who were in irons, were placed on board the said brig, which proved to be the Danish brig Mathilde, with a black painted ball in her fore-top-sail; and at about 4 o'clock a. m. of the 8th October the brig proceeded eastward, and at 7 o'clock p. m. of the same day they anchored in or near the Five-Fathom Hole; they further say, that the said steamship had not over ten tons of coal on board on the evening of this day.

And these said appearers, upon their oaths aforesaid, do further declare that, during the said voyage, they, together with others of the said ship's company, did all they could to preserve the said steamship from seizure.

Wherefore the said Edward Dingle Nichols and Frank Edward Hawley have protested, and I, the notary aforesaid, at their special instance and request, do publicly and solemnly protest against all and every person whom it doth or may concern, and especially against the seizure of the said steamship Roanoke, by the aforesaid Braine and others, and against all losses, damages, costs, charges, and expenses which have occurred, or may hereafter occur, by reason of the foregoing premises.

Thus done and protested in the town of St. George's, the 8th of October, 1864.

In testimony whereof, these appearers have subscribed their names, and I, the notary aforesaid, have hereunto affixed my notarial seal.

E. D. NICHOLS.
F. E. HAWLEY.

Mr. Allen to Mr. Hyland.

No. 4.]

CONSULATE OF THE UNITED STATES OF AMERICA,
Bermuda, October 10, 1864.

SIR: I herewith inclose an affidavit having reference to certain acts of piracy and murder committed by persons now in the town of St. George's, Bermuda, and have respectfully to request the course of proceeding authorized by article 10 of the treaty of August 9, 1842, between the government I have the honor to represent and her Majesty's government, may be at once adopted.

I have the honor to be, sir, your obedient servant,

C. M. ALLEN,
United States Consul.

The Worshipful W. C. J. HYLAND,
Police Magistrate, Bermuda.

[Inclosure with No. 4.]

Affidavit of Mr. Allen.

I, Charles M. Allen, consul to the United States of America for Bermuda, do solemnly and truly swear that I have good reason to believe, and do believe, that an act or acts of piracy and murder has or have been committed on board the United States steam vessel Roanoke, at sea, on or about the 29th day of September last, by one — Braine, *alias* Johnson, assisted by one Dr. Parr, *alias* Anderson, and several other persons to this deponent unknown, and that the said persons have sought an asylum in the town of St. George's, in Bermuda, aforesaid.

C. M. ALLEN.

Sworn to before me this 10th day of October, 1864.

JAMES H. THIES, *Mayor*.*Mr. Allen to Mr. Hamley.*

No. 5.]

CONSULATE OF THE UNITED STATES OF AMERICA,
Bermuda, October 12, 1864.

SIR: On the 10th instant I made a request to W. C. J. Hyland, esq., police magistrate of the town of St. George's, that certain persons connected with and implicated in what I believed to be an act of piracy committed on board the United States steamer Roanoke, of New York, said persons then being in the town of St. George's within the jurisdiction of the said magistrate, be arrested, and dealt with in accordance with the 10th section of the treaty made August 9, 1842, between her Majesty's government and the government of the United States of America. With the said request I inclosed an affidavit setting forth the belief that such an act had been committed by the parties therein named.

I beg to inform your excellency that I am not aware any action has yet been taken upon the matter, and that the parties alluded to are now at large within the jurisdiction of the said magistrate.

I have the honor to be, sir, your most obedient servant,

C. M. ALLEN,
*United States Consul.*His Excellency W. G. HAMLEY,
Lieut. Governor and Commander-in-Chief, &c., Bermuda.

[Reply to No. 5.]

*Mr. Hamley to Mr. C. M. Allen.*MOUNT LANGTON, *October 16, 1864.*

SIR: I have the honor to acknowledge the receipt of your letter of the 12th instant, in which you inform me that you had requested Mr. Hyland, the police magistrate in St. George's, to cause to be arrested certain persons connected with an implication in what you believe to be an act of piracy, and that these persons should be dealt with according to the 10th section of the treaty, made August 9, 1842, between her Majesty's government and the government of the United States of America; in which you also inform me that with your request to Mr. Hyland you had inclosed an affidavit setting forth your belief of the matters stated, and in which you conclude by saying that you are not aware that any action has yet been taken in the matter, and that the suspected persons are still at large.

Having referred to the attorney general your letter, and one from Mr. Hyland, of the same date, on the same subject, covering your letter to him of the 10th, with the accompanying affidavit, I am advised that the course adopted by you is not such as would warrant me in taking any proceedings under the treaty referred to.

It may, however, afford you some satisfaction to be informed that an investigation has been held by two magistrates, (of which you are probably not altogether ignorant,) the effect of which has been to show that even if you had, in every respect, complied with the requisites to an effectual application, and if I had, after the recent decision in England on a similar question, felt justified in issuing my warrant to the magistrates, the result must have been, after, perhaps, a more protracted inquiry, the liberation of the persons charged by you with piracy.

These persons were, after a hearing, and the production of a commission from the Confederate States authorities, dismissed on the 12th instant, as it was made clearly to

appear that, whatever opinion might be entertained of the propriety of their conduct, the commission and instructions relieved them from personal responsibility to neutral nations.

I have the honor to be, sir, your obedient servant,

W. G. HAMLEY,

Lieutenant Governor and Commander-in-Chief.

C. M. ALLEN, Esq.,

Consul of the U. S. of America, St. George's.

[From British Blue Book, "North America," No. 1, 1865, (Appendix A.) p. 99.]

No. 6.

Mr. Cardwell to Acting Governor Hamley.

DOWNING STREET, January 16, 1865.

SIR: I have to acknowledge your dispatch of the 28th October, relating to the arrest and release of Captain Braine and other persons concerned in the capture of the United States vessel Roanoke.

I am of opinion that (subject to the question which appears to have existed as to the magistrate's jurisdiction) Captain Braine and the men under his orders were properly arrested upon the charge of piracy, but I also think that the attorney general properly withdrew the charge upon the production of the commission to Captain Braine from the confederate government, as I am advised that these persons could not have been delivered up under the extradition treaty to the consul of the United States, even if his application had been made in proper form.

You appear to be fully alive to the necessity of enforcing the provisions of the foreign enlistment act, and it is therefore unnecessary for me to observe on the evasions and infringements of that act, which in spite of the efforts of your government appear to be practiced in Bermuda.

The circumstances of this case require that I should again impress upon you the duty of enforcing stringently her Majesty's orders against the entrance of prizes taken by either belligerent within the territorial waters of her Majesty.

I have, &c.,

EDWARD CARDWELL.

Mr. Adams to Mr. Seward.

No. 864.]

LEGATION OF THE UNITED STATES,
London, January 26, 1865.

SIR: I have the honor to transmit a copy of Lord Russell's note to me of the 21st instant, in reply to one which I addressed to him just one month before, under the directions contained in your dispatch No. 1165, of the 30th of November. A copy of my note was sent with my No. 836.

It will be perceived that his lordship avoids the true point at issue in a manner not altogether unusual with him when he is not prepared to enter into the merits of a question. The facts alleged to have taken place at Bermuda on the evidence of the master of the Roanoke are not disputed.

I have the honor to be, sir, your obedient servant,

CHARLES FRANCIS ADAMS.

Hon. WILLIAM H. SEWARD,
Secretary of State.

FOREIGN OFFICE, January 21, 1865.

SIR: I have had the honor to receive your letter of the 21st ultimo, protesting against the proceedings of her Majesty's colonial authorities at Bermuda in the case of the steamer Roanoke, and inclosing copies of various documents relating thereto.

These papers refer to two different complaints. The one complaint is, that persons were enlisted at Bermuda with a view to make war on a state in amity with her Majesty. The other complaint is, that certain passengers proceeding from Havana in the United States vessel Roanoke, when five hours from Havana on their voyage, rose on the captain, made themselves masters of the vessel, destroyed her, and were afterwards permitted to land on the island of Bermuda. The answer to the first complaint is, that sufficient evidence to convict the persons accused was not produced, and that, conse-

quently, they could not be convicted. The answer to the second complaint is, that the persons arrested for a supposed piratical act produced a commission, authorizing that act as an operation of war from the government of the so-called Confederate States, which are acknowledged by her Majesty's government to possess belligerent right.

I have the honor to be, with the highest consideration, sir, your most obedient, humble servant,

RUSSELL.

CHARLES FRANCIS ADAMS, Esq., &c., &c., &c.

Mr. Seward to Mr. Adams.

No. 1270.]

DEPARTMENT OF STATE,
Washington, February 13, 1865.

SIR: I have the honor to acknowledge the receipt of your dispatch of the 26th of January, which is accompanied by a copy of a note that Earl Russell wrote to you on the 21st of January last, in regard to the affair of the Roanoke at Bermuda. Earl Russell is content in that paper with assuring us that our consul had not sufficient evidence to justify a conviction of the parties who were engaged in that port in enlisting seamen for the pirate vessel, and that her Majesty's government recognized the insurgents of the United States as a belligerent.

His lordship has controverted the facts upon which our complaint in the matter of the Roanoke was based. I shall not, therefore, take pains now to restate them. They show that Bermuda has been made a base of hostilities against the United States, and in this respect that island is in the same situation Canada has occupied. Her Majesty's government have very promptly taken extraordinary means to secure the maintenance of neutrality in that province. In a practical sense, Bermuda is as much a border province in regard to the United States as Canada is, yet it now appears that her Majesty's governments do not think themselves called upon to exercise the same vigilance and diligence in order to secure its just rights; this government is left to discriminate in its conduct between Bermuda and Canada, to the prejudice of the latter. We await, for this reason, with new solicitude, the further progress of events in the two provinces, respectively.

I am, sir, your obedient servant,

WILLIAM H. SEWARD.

CHARLES FRANCIS ADAMS, Esq., &c., &c., &c.

APPENDIX No. XV.

LIST OF CLAIMS FOR PROPERTY DESTROYED BY THE REBEL CRUISERS FITTED OUT IN BRITISH PORTS.*

INCLOSURE TO INSTRUCTION TO MR. ADAMS, No. 1835.

The following is an abstract of the claims filed in the Department of State by American citizens, native and naturalized, for damages sustained by them as the owners, mariners, freighters, or insurers of duly documented American ships, captured and destroyed, or appropriated by the officers and crew of the steamer *Alabama*; and as owners, insurers, or otherwise interested in the cargoes of such ships, or in charter parties, for the services of such ships.

The several insurance companies named as claimants are corporations organized and doing business under the laws of the several States in which they are respectively located:

The ship *Lafayette*, (No. 1,) of 945½ tons burden, registered at Portland, Maine—whereof Clement H. Soule, Enos Soule, Francis B. Soule, deceased, and Alfred T. Small, of Freeport, Maine, and Hinchman S. Soule, deceased, of New Haven, Connecticut, were the sole owners, and the said Alfred T. Small was master—sailed from New York, October 20, 1862, with a cargo of corn, wheat, and lard, bound for Belfast, Ireland; was captured on the 25th October, 1862, and burned with her cargo and stores—the *Alabama* wearing British colors at the time of the capture.

The owners claim for the value of the ship and freight	\$98,978 68
Captain Small, for charts, nautical instruments, books, clothing, &c	513 25
B. E. Clark, W. B. Astor, and J. B. Hart, constituting the firm of B. E. Clark & Co., of New York City, for 1,498 grain bags, claim	4,496 70

The bark *Elisha Dunbar*, registered at New Bedford, Massachusetts—whereof William Watkins, Edward C. Jones, Caleb Anthony, Geo. A. Dunbar, Ann H. Dunbar, and George A. Watkins, of New Bedford, and Benjamin Ellis, of Fairhaven, Massachusetts, were owners—sailed from New Bedford, August 25, 1862, with outfit for a whaling voyage of forty months in the Atlantic and Indian Oceans. After taking sixty-five barrels of spermaceti oil she was captured, and burned September 18, 1862, at or near latitude 39° 50' north, longitude 35° 20' west.

The owners claim for the value of the bark, outfit, and cargo, and for the loss of prospective catchings	\$128,295 00
They admit that they have received upon policies of insurance of their respective interests	21,375 00
(Which may be claimed by the insurers,) but they insist that their claim is not impaired or diminished by their assignments to the underwriters.	

The bark *Parker Cook*, of Boston, 136 tons burden, whereof Edward Habich was sole owner, and Thomas M. Fulton was master, sailed from Boston November 13, 1862, laden with a general cargo, belonging to the said Habich, and bound for Aux Cayes. Captured and burned November 17, 1862, off the east end of St. Domingo, bearing south-southeast, about twenty miles distant.

Damages claimed by the Manufacturers' Insurance Company of Boston, as assignees of Habich and Fulton, for value of vessel	\$9,493 35
For value of cargo at Aux Cayes	14,280 94
For freight list of the bark	1,625 29
Expenses of master and crew for subsistence and passage home	180 00
Charts, books, &c, lost by master	485 00

The claim of the owner and master were assigned to said insurance company on the 26th January, 1862, in consideration of \$17,100.

The ship *Virginia*, of 346½ tons burden, registered at New Bedford, Massachusetts—of which William Hathaway, jr., Joseph Wing, William R. Wing, and Mary C. Luce, the executors of Matthew Luce, deceased, viz: William Hathaway, jr., Edward W. Howland, and William Penn Howland, all of New Bedford; Richard C. Nichols, of Boston; Richard G. Luce, of Tilbury; Lorenzo Smith and Benjamin C. Cromwell, also of Tilbury; S. W. Carey, administrator of Le Roy M. Yule, late of New York; Henry Bar-

* Inclosed with dispatch from Mr. Seward to Mr. Adams, No. 1835, August 27, 1866, Vol. III, p. 638.

ling and Abram H. Davis, of New York; and Edward D. Mandell, of New Bedford, executors of Edward Mott Robinson, late of New York, were owners—sailed from New Bedford, August 26, 1862, on a whaling voyage, and was captured near latitude 39° north, longitude 34° west.

The owners claim for value of bark and outfits, and of the fair and reasonable cargo which might have been taken..... \$153,950 00

Subject to deduction for amount received upon policies of insurance \$13,550, for which the insurers are entitled to claim.

The bark *Lauretta*, 284 tons burden, of Boston—whereof Samuel C. Bailey and Marshall M. Wells, of Bristol, Maine; Samuel Lane, Joseph Teague, and Harriet B. Little, administratrix of Robert M. Little, deceased, and Joel Huston, all of Damariscotta, Maine; and William Ropes, of Boston, were owners, and M. M. Wells was master—sailed from New York October 25, 1862, with a cargo of flour and staves for Madeira and Messina; was captured and burned with cargo October 28, 1862.

The owners claim for the value of the bark \$15,000 00

The ship *Golden Eagle*, of New Bedford, 1,120 tons burden—whereof Edward M. Robinson, H. L. Howard, executrix of B. L. Howard, deceased, and John A. McGaw, were owners, and Edward A. Swift, was master—sailed from Howland's Island November 23, 1862, with a cargo of guano, bound to Cork for orders; was captured and burned February 21, 1863, near latitude 29° 17' north, longitude 45° 15' west.

The owners claim for the value of the vessel the sum of \$36,000 00

For freight 26,000 00

Making a total of 62,000 00

The master for loss of personal effects, the sum of \$1,500 00

The *Nora*, of Boston—whereof George B. Upton and George B. Upton, jr., of Boston, Massachusetts, were owners, and Charles E. Adams was master—sailed from Liverpool for Calcutta, February 18, 1863, under charter to W. E. De Matbos, the owner having no other interest in the cargo than their lien for freight—was captured March 27, 1863, in latitude 1° 23' north, longitude 26° 30' west, and burned.

The owners claim for value of ship and freight \$80,000 00

The master for one year's salary 1,800 00

For clothing, books, charts, &c 1,700 00

The bark *Union Jack*, of 482½ tons burden—whereof Chas. P. Weaver, of Braintree, Massachusetts; Benj. F. Delano, Frederick Chandler, Charles A. Cousins, Elisha H. Ryder, Maurice M. Pigott, Albert B. Low, William H. Haskins, Henry Pigeon, Otis C. Howe, John Howe, jr., Samuel Averill, and Edward Johnson, of Boston, Massachusetts; Norton Pratt, of South Braintree, Massachusetts; Luther Robie, of Nashua, New Hampshire; Louisa Wilde, of Boston, and John Atkinson were owners, and the said Chas. P. Weaver was master—sailed from New York March 23, 1863, with a general cargo, bound for Shanghai, China, on the 3d of May, 1863, in latitude 9° 40', longitude 32° 30' west; was captured and burned, with cargo and stores.

The owners claim for value of ship the sum of \$35,000 00

For balance due on charter-party, (with premium on exchange at Shanghai, where payable) 6,000 00

The master, for instruments and personal effects, stores for crew, expenses of passage and return to the United States, (with premium on exchange at Shanghai) 2,720 00

Charles D. Lewis, of New York city, for merchandise destroyed in said ship, (with profits equal to exchange on Shanghai) 857 70

Franklin Knight, of New York, a passenger, for loss of library, clothing, expenses, and damages 10,015 00

Byron Binninger, of New York, also a passenger, with his wife, for passage money, goods, expenses, and time 1,782 83

Charles H. Platt, of New York, for merchandise lost 739 48

George A. Potter, of New York, for merchandise, after deduction of amount received from Atlantic Mutual Insurance Company, of New York, the sum of 7,584 33

The Sun Mutual Insurance Company of New York, as insurers and assignees of H. F. Vail, for merchandise lost in said ship 1,400 00

The Pacific Mutual Insurance Company of New York, as insurers and assignee of J. Cutter Faller, of New York, on merchandise lost with said ship 1,822 00

The ship *Alert*, of 398½ tons burden, registered at New London, Connecticut—whereof Samuel Church was master and part owner, and Moses H. Grinnell and Robert P. Minturn, of the city of New York, Richard H. Chappell, Henry J. P. Ha-

vans, Francis Allyne, Robert Coit, Robert H. Glass, Thomas P. Williams, and John Clark, of New London; Mrs. Harriet P. Williams, of Norwich, Connecticut; Edward Church, James S. Rogers, of Montevideo, all native citizens, were the remaining owners—sailed from New London August 20, 1862, on a sea-elephant and whaling voyage, to the waters about the Azore Islands; on the 9th September, 1862, was captured off the island of Flores, and burned with her entire equipment and stores.

Moses H. Grinnell and Robert Minturn, owners of one-eighth of the ship, and who were not insured, claim for loss of their share of the vessel and outfit..... \$6,500 00

The remaining owners of seven-eighths of the vessel claim for their interest in the vessel, outfit, and oil on board..... 8,058 90

Having deducted \$13,300 received on insurance, which is claimed by the underwriters, they also claim for their damages, by occasion of the breaking of the voyage..... 30,000 00

The Atlantic Mutual Insurance Company of New York, as underwriters, on ship and outfit, and assignees of owners insured, claims..... 13,300 00

The bark Conrad, of 347½ tons burden, registered at Philadelphia, Pennsylvania—whereof John W. Field, of that city, was sole owner—sailed from Buenos Ayres June 7, 1863, laden with a cargo of wool, bound for New York, was captured June 19, 1863, near latitude 25° 44' south, longitude 39° 51' west; was armed by the captors and used as a consort or tender to the Alabama.

The Atlantic Mutual Insurance Company of New York claim, as underwriters upon the vessel, and as assignees of the owner..... \$10,000 00

Also, as insurers of R. W. Ropes & Co., of New York, upon part of the cargo..... 6,750 00

The said R. W. Ropes & Co., for loss over and above sum received of insurers..... 16,797 36

The Sun Mutual Insurance Company of New York, as insurers upon part of cargo, and assignee of Wm. C. Kirkland & Van Sacks, of New York City..... 37,205 00

The Columbian Insurance Company of New York, as reinsurers of the Sun Mutual Insurance Company upon part of the risk above stated, the sum of..... 17,205 00

The ship Thomas B. Wales, 599½ tons burden, registered at New York—of which Thomas B. Wales, George W. Wales, and Nathaniel W. Emmons, all of Boston, Massachusetts, were the sole owners—sailed from Calcutta, laden with passengers and a cargo of general merchandise, on the 9th of June, 1862, bound for Boston; was captured and burned November 8, 1862, in latitude 29° north, longitude 58° west, (or thereabouts,) with cargo and stores.

The owners claim for loss of ship, cargo, and freight, over and above the sums received by them from the several underwriters on policies of insurance..... \$39,811 00

The Atlantic Mutual Insurance Company, as underwriters upon ship and cargo..... 130,264 00

The Sun Mutual Insurance Company of Boston..... 5,000 00

The China Mutual Insurance Company of Boston..... 9,200 00

The Alliance Mutual Insurance Company of Massachusetts..... 5,000 00

J. S. Farlow & Co., of Boston for merchandise burned with the ship... 911 40

George H. Fairchild, a passenger, with his wife, and daughters, and servants, and for personal effects, stores, and expenses..... 4,400 00

Joshua B. Atkins, of Provincetown, Massachusetts, first mate, for charts and instruments, merchandise on private venture, wages, &c., the sum of..... 1,450 00

The bark Sea Bride, of 447 tons burden, registered at Boston and Charlestown—whereof Caleb Eaton, Abriel Eaton, Elbridge G. Choate, and Charles F. White, of Boston; Rosina Clark, administratrix of James Clark, deceased, of Charlestown, Massachusetts; David E. Mayo, of Chelsea, Massachusetts; William Currier, Jonathan Kenniston, and James B. Kenniston, of Newburyport; Zenos D. Bassett, Elisha Bacon, William S. Russell, of New York; and Elisha Rider, of Boston, were sole owners, and said Charles F. White, master—sailed from New York May 28, 1863, with a general cargo, bound for Table Bay, Cape of Good Hope; was captured August 5, 1863, within Table Bay, and the owners claim in British waters, and became a total loss.

The owners claim for vessel, equipment, and stores..... \$30,000 00

Amount due them under charter-party to Rufus Greene & Co., of Providence, Rhode Island..... 10,500 00

Charles F. White, the master, for personal effects, advanced wages, and expenses..... 3,393 00

Rufus Green, William J. Arnold, and Benjamin R. Arnold, for invoice value of cargo, \$36,945 12, and for damages upon non-arrival at port of destination \$8,500—a total of	\$45,445 12
The Columbian Insurance Company of New York, as underwriters of shares in ship, and freight and portions of cargo, to sundry owners...	29,300 00
The bark Amazonian, of 490½ tons burden, registered at the port of Boston and Charlestown—whereof Elisha H. Rider, of Chelsea, Massachusetts; David E. Mayo, Ariel Gove, Winslow Loveland, Rosina Clark, administratrix of James Clark, deceased, Maurice M. Pigott, Hiram Baker, Henry A. Baker, of Boston, Massachusetts; John F. Cument, of West Lynn, James Merrill, Solomon Littlefield, Hiram Littlefield, Atkinson Stannard, Daniel C. Rogers, John R. Stannard, Jonathan Kingston, and George B. Merrill, of Newburyport, Massachusetts; Christopher Keith, Ephraim Keith, and Sylvester K. Small, of Chatham, Massachusetts; Zenos D. Bassett, Elisha Bacon, and William Russell, of the city of New York, were owners, and the said Winslow Loveland was master—sailed from New York, April 22, 1863, laden with general merchandise, and bound for Montevideo; was captured June 2, 1863, and burned, with cargo and stores.	
The owners claim for the value of the bark \$32,000, and for amount due on a charter-party of it to Edward F. Davidson, of New York, \$11,000, making a total of	\$43,000 00
Winslow Loveland, master, for loss of nautical instruments and clothing, the sum of	260 00
David Mayo, part owner and former master, for instruments, stores, and advanced wages	1,566 00
The New York Mutual Insurance Company, as underwriters upon cargo.	250 00
The Commercial Insurance Company of New York, insurers of H. D. Cordova & Co.	3,385 00
The same company, the New York Mutual Insurance Company, and the Union Mutual Insurance Company of New York, as assignees and insurers of the Orient Mutual Insurance Company, against its risks taken on cargo	8,156 00
The Sun Mutual Insurance Company of New York, as insurers of cargo for sundry persons, the sum of	5,725 00
The Columbian Insurance Company of New York, insurers of cargo for sundry persons	12,750 00
Also as reinsurers to New England Mutual Insurance Company of risk on cargo	10,000 00
To Franklin Insurance Company	2,500 00
The Pacific Mutual Insurance Company, as assignees and insurers of Henry D. Cordova & Co., the sum of	3,385 00
The bark La Fayette, (No. 2,) of New Bedford, 310½ tons burden—whereof William Lewis was master, and Ivan H. Bartlett, Ivan H. Bartlett, jr., and George F. Bartlett, of New Bedford, were managing owners—sailed from New Bedford, May 20, 1862, on a sperm whaling voyage, with provisions for twenty months; was captured on the 15th April, 1863, near the island of Fernando de Noronha, and burned, with the oil on board and stores.	
The owners claim for ship and outfit	\$24,000 00
For oil, and \$80 cash on board	10,475 00
For value of the enterprise in the probable further catch of oil	33,446 00
William Lewis, master, for clothing, instruments, and goods in private venture, the sum of	1,050 00
George F. Bartlett, part owner, for goods on board for trading purposes.	500 00
The brig Kate Cozey, of Westport, in the collection district of New Bedford, Massachusetts, of 320 tons burden—whereof Stephen Flanders was master, and Alexander H. Cozey, of Westport, managing owner—sailed from the port of Bravo, October 13, 1862, on a whaling cruise, and laden with whaling stores; was captured April 15, 1863, near the island of Fernando de Noronha, and burned on the 17th of the same month.	
The owners claim for the value of the brig, outfit, and oil on board	\$27,800 00
For value of reasonable prospective catch of oil	1,820 00
The ship Sea Lark, registered at Boston, of 973 tons burden—whereof W. F. Peck was master, and Edward Mott Robinson, of New York, Samuel G. Reed, of Roxbury, Massachusetts, and Lyman Grimes, of Brooklyn, New York, were sole owners—sailed from Boston, March 28, 1863, laden with general cargo, and bound for San Francisco; was captured May 3, 1863, near latitude 9° 30' south, longitude 31° 20' west, and burned, with its cargo, except such as was pillaged by the captors.	
Edward M. Robinson, owner, claims for the value of uninsured interest on ship, stores and freight	\$37,250 00
Samuel G. Reed, owner, for his uninsured share of outfit and freight	12,937 50
Lyman Grimes, owner, for uninsured share of outfit and freight	4,312 50

The Mercantile Marine Insurance Company of Boston, for insurance paid on shares (one-eighth) of Lyman Grimes in the ship	\$5,000 00
The Columbian Insurance Company of New York, for insurance paid on share (three-eighths) of S. G. Reed in the ship	15,000 00
To Clark & Wilbur, and W. H. Taylor, on cargo	3,720 00
Ebenezer B. Philips, of Boston, as owner of part of cargo	4,320 00
The Metropolitan Insurance Company of New York, for insurance paid Robert Morris & Co. on part of cargo	2,000 00
Locke & Montague, for goods on board, the sum of	458 98
The Sun Mutual Insurance Company of New York, for loss paid to D. F. White, of Boston, goods to the value of	450 00
Holmes, Goodwin & Co., of New York, for goods to the value of	3,656 06
Dimon Hatford, of Malden, Massachusetts, for goods to the value of	4,707 04
Hostetter & Smith, of Pittsburg, Pennsylvania	71 00
The Washington Insurance Company of Boston, insurers of W. Winson & Co., on goods	11,675 00
Insurers of Chas. Soule, jr., on goods	3,300 00
Moses Ellis and Philip L. Weaver, of San Francisco, on merchandise	11,929 27
Robert Morrison & Company, for goods over and above insurance (received \$2,000 from Atlantic Mutual Insurance Company, and \$2,000 from Metropolitan Insurance Company of New York)	1,444 00
Van Winkle & Duncan, of New York, on merchandise	698 34
Daniel L. Perkins, of Oakland, California, on merchandise	530 00
Atlantic Mutual Insurance Company of New York, as insurers of cargo of R. Morrison & Co., and others, the sum of	36,968 00
The New England Mutual Insurance Company, as insurers of sundry owners of merchandise	12,174 00
John Wesley Brittan, Alexander Dunbar, McDonald & Kimbal, C. Eldridge of San Francisco, (J. W. Brittan & Co.) merchandise	6,517 68
Geo. Osgood and James Burgess Stetson, of San Francisco, for goods, (over and above \$1,000 received for insurance from Merchants' Mutual Insurance Company of San Francisco.)	1,718 50
Lewis Hatch, of Boston, Massachusetts; Isaac Hatch and Jacob Hatch, of San Francisco, for merchandise	1,077 50
Pio Bisagno, Bartolomeo, and Luigi Bisagno, of San Francisco, for goods lost	735 26
The Talisman, of New York, of the burden of 1,237½ tons—whereof D. H. Howard was master, and Geo. Warren, of the city of New York, and Eben B. Crocker, his partner, were (by register at that port) the sole owners—sailed from New York, May 2, 1863, laden with coal and general cargo for Shanghai; was captured by the Alabama on the 5th of June, 1863, near latitude 14° 47' south, longitude 34° 7' west, and burned, with cargo and stores.	
The Pacific Mutual Insurance Company, as insurers of merchandise lost on board, as assignees of John L. Martin, of New York, \$175; of Jas. Spear, of Philadelphia, \$860; of J. Cutler Fallar, of New York, \$4,234, making a total of	\$5,269 00
The New York Mutual Insurance Company claim damages, as assignee, for insurance paid by it	15,094 00
And for insurance on ship of Crocker & Warren, to whose assignee, Francis Skiddy, was paid	10,000 00
Antoine Daniel, a naturalized citizen of Phillipsburg, Maine, for loss of personal effects, a private adventure of merchandise on board	1,455 00
Columbian Insurance Company of New York, as insurers and assignees upon cargo, of W. H. Fogg & Co.	16,907 00
Upon freight, also of W. H. Fogg & Co.	2,591 00
The Washington Insurance Company of Boston, as insurers and assignees of Stephen, and upon the property of Crocker & Warren, the sum of	10,000 00
Mrs. J. H. Thayer, of Williamsburg, New York, for loss of money, time, &c., of minor son, William, on board	1,000 00
The Atlantic Mutual Insurance Company of New York, as insurers and assignees of Warren & Crocker, on one-third of ship	20,000 00
Of James Jewett, on goods	6,200 00
Bogert & Oakley, on goods	973 00
Dehon, Clark & Bridges, on goods	2,300 00
P. S. Forbes, on merchandise	19,500 00
Westray, Gibbs & Hardcastle, merchandise	1,100 00
Backlin & Crane	17,607 00
Making a total of	67,680 00

The Winged Racer, an American ship of 1,767 $\frac{1}{2}$ tons burden, duly registered in the port of New York—whereof George Cumming was master, and Robert W. Taylor, Henry W. Hubbell, George Ashton, and Edward H. Gillian, all of the city of New York, were sole owners—sailed from the port of Manilla, October 8, 1863, loaded with hemp, sugar, indigo, pearl shells, and cigars, bound to the port of New York. On the 10th November, 1863, when within three miles of North Island, a Dutch possession, the Winged Racer was captured by the Alabama, and, after being plundered by the crew of the latter, was set on fire and totally destroyed, with the cargo and stores remaining on board.

The owners claim damages as follows:

For the value of the ship at the time of her destruction, exclusive of her stores and outfit.....	\$60,000 00
For value of her freight.....	22,095 00
Robt. W. Taylor and Henry W. Hubbell, part owners of the ship, were owners of part of the cargo, and claim damages for the value of said cargo, at the port of destination, at the time it would reasonably have arrived, but for its destruction in transitu, (over and above the sum of \$15,000 received by them from insurers and freight,) to the sum of....	233,844 81
They state that the Pacific Insurance Company insured said goods to the amount of.....	15,000 00
George Cumming, of Brooklyn, master, for his personal effects, merchandise loaded on his account, the sum of.....	2,784 00
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The Atlantic Mutual Insurance Company of New York, as assignee of Youngs & Co., for insurance paid on cigars and indigo by said company.....	20,118 00
As assignee, &c., of Youngs, Smith & Co., for insurance paid on 55 cases pearl shells.....	2,720 00
Of Parsons and Petit, insurance paid on indigo, sold to arrive.....	300 00
Of George Ashton, part owner, for insurance on one-eighth of vessel.....	6,000 00
And one-eighth of freight—making.....	32,138 00
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The Columbian Insurance Company of New York, as reinsurers and assignees of the Pacific Mutual Insurance Company upon cargo on board The Pacific Mutual Insurance Company of New York, claim as assignees and insurers of Henry W. Hubbell, upon 15,000 th of hemp and sugar destroyed on Winged Racer.....	\$5,000 00
George W. Thompson, of Portsmouth, New Hampshire, first mate of the Winged Racer, for clothing, instruments, and other property, besides sickness and expenses.....	15,000 00
	980 00

The ship Contest, of 1,098 tons, duly registered at New York—whereof Abner A. Low, Josiah O. Low, Lucius Hyde, Jr., Ann D. B. Low, Thos. Vernon, A. Low, and Edward H. R. Lyman, of New York; Joseph Z. Robert, of Rye, New York; Nathaniel B. Palmer, William H. King, of Rhode Island, were owners; and Frederick G. Lucas, master—sailed from Kanagawa 14th October, 1863, laden with rags, cotton, tea, and other merchandise, bound for New York. On the 4th November, 1863, about latitude 5° 14' south, longitude 106° 50' east, the ship was captured by the Alabama and burned, with her cargo.

The owners claim damages for the value of $\frac{2}{3}$ uninsured of the vessel..	\$26,500 00
And for freight.....	30,522 38
Whereof \$20,000 was insured and paid to them.	
The Atlantic Mutual Insurance Company of New York were the insurers, and had paid upon $\frac{1}{3}$ of the ship the sum of.....	18,500 00
The owners also claim damages for the destruction of cargo, which was mostly owned, and all of which was consigned to them, to the amount of its value.....	61,500 00
Less the amount insured thereon and paid on abandonment to the Atlantic Mutual Insurance Company.	
Frederick George Lucas, master, for his books, charts, nautical instruments, clothing, merchandise, shipped on his account and venture, expenses of maintenance and passage to the United States, and for loss of time.....	4,638 00
Oliver Bryan, 29 South street, New York, for merchandise lost in Mexican dollars.....	180 59

The American bark Lamplighter, of 360 tons burden, duly registered in the ports of Boston and Charlestown—whereof David Howland, David Hinckley, and others named in the ship's register, (a copy of which was filed with their memorial 29th July, 1864,) were the owners, and Oring J. Harding was master—sailed from New York 9th October,

1863, laden with a cargo of tobacco, and bound to Gibraltar. On the 15th October, 1863, the bark was captured and burned, with her cargo and stores.

The owners claim damages for the value of the bark.....	\$18,500 00
For freights ($\frac{3}{4}$ by those who presented claims of \$3,780) say.....	50,040 00
The Columbian Insurance Company of New York, as insurers and assignees upon the freight of Bassett and Nickerson.....	5,000 00

The American ship Charles Hill, of 699 tons, duly registered at Boston—whereof Charles Hill and Charles J. Hill, of Boston; John Currier, of Newbury, Connecticut; and William Lambert, of Portsmouth, New Hampshire, were sole owners; and Franklin Percival, master—sailed from Liverpool February 12, 1863, laden with salt, and bound to Montevideo. On the 25th of March, 1863, near latitude $1^{\circ} 23'$ north, longitude $26^{\circ} 30'$ west, was captured, and totally destroyed by fire.

The owners claim for the loss of the ship.....	32,000 00
And the further sum of (on the cargo on board).....	11,735 33
Making	43,735 33

Frank Percival, of Barnstable, Massachusetts, master of the Charles Hill, claims for instruments, books, clothing, money, &c..... 1,542 60

The bark Amanda, a duly registered American vessel—whereof Thos. J. Stewart, Timothy Crosby, John H. Crosby, Benj. S. Crosby, Geo. Crosby, Anna L. Crosby, Joseph H. Wheelwright, and John B. Foster, of Bangor, Maine, and Sarah H. Pendleton, administratrix of the estate of Charles U. Pendleton, deceased, of Searsport, Maine, were sole owners; and Isaiah Larrabee was master—sailed from Manilla, laden with sugar and hemp, the 18th September, 1863, bound to Queenstown, Great Britain. On the 6th November, 1863, about 125 miles south-southwest of Java Head, the bark was captured by the Alabama, and burned, with her cargo and stores.

The owners claim the value of the bark and freight, in the sum of..... 68,000 00

Subject to a deduction of \$2,500, for insurance, as below stated.

Isaiah Larrabee, master, claims for loss of prime and personal effects.....	2,039 37
Hiram Emory Swain, of Frankford, Maine, first mate, for clothing, &c.....	690 00
The Merchants' Mutual Insurance Company of Bangor, as insurers and assignees of the interest of Joseph H. Wheelwright and Catherine McG. Foster, part owners.....	2,500 00

The American bark Tycoon, duly registered at the port of New York, of 717 $\frac{1}{2}$ tons—whereof William Warren, D. Gookin, Wm. W. Wakeman, Matthew Bird, Charles Dimon, John B. Dickinson, Andrew T. Stewart, of New York city; Frederick Dimon, Norwalk, Connecticut; and Jonathan Godfrey, of Southport, Connecticut, were sole owners; and Edward Ayres, of Wilmington, Delaware, was master—sailed from New York the 19th March, 1864, with a general cargo, bound to San Francisco. On the 27th April, 1864, in latitude $10^{\circ} 55'$ south, longitude $31^{\circ} 25'$ west, the Tycoon was captured by the Alabama, and, after being stripped of such stores, spars, and cargo as the captors desired, was set on fire by the latter, and became a total loss.

The owners claim damages for the value of the ship, with her outfit....	\$64,000 00
For freight and primeage.....	24,559 78

Making..... **88,559 78**

The Atlantic Mutual Insurance Company of New York were the insurers to different mercantile firms and individuals, of goods shipped on the Tycoon and described in fifty-five bills of lading. It paid the parties insured, upon the abandonment to it of such goods and claims for damages, the several sums insured, and claims, as the assignee of them respectively, sums to the amount of.....

\$121,896 00

De Witt, Kittle & Co., of New York, claim for goods shipped on their account.....

\$9,885 44

For commissions on freight lost on said bark, ($2\frac{1}{2}$ per cent. on \$24,559 78,) the sum of.....

613 99

Commission on goods consigned to their firm in San Francisco.....

550 00

Making an aggregate of..... **11,049 43**

Edwin Deming, of Hartford, Connecticut, claims for goods shipped by him, (uninsured).....

\$1,170 50

Locke & Montague, of New York, claim for goods shipped for their account.....

2,037 95

Geo. J. Brooks, of New York, for goods shipped.....

1,598 67

The Sun Mutual Insurance Company of New York, as insurers and assignees of sundry parties, on goods destroyed, and of the charterer, R. M. Corley, of New York, paid.....	\$16,859 00
Charles Mann and Ezra H. Winchester, of San Francisco, claim for goods.....	5,578 28
John Taylor, of San Francisco, for goods lost.....	1,658 00
Joseph Pollock, of New York, and Leopold Pollock, of San Francisco, naturalized citizens, for goods destroyed.....	655 75
Abraham S. Rosenbaum, Joseph Brandenstein, of New York; Moses Rosenbaum, of San Francisco, for goods.....	4,978 25
The Columbian Insurance Company, as insurers and assignees upon vessel and freight of C. & F. Dimon.....	5,500 00
Upon cargo of J. C. Dayton & Co.....	4,855 00
Of Hall & Macomber.....	275 00
Of F. Hortsman & Co.....	2,000 00
Of Robert Taylor.....	4,500 00
And of L. McMurray & Co.....	3,150 00
Coffin, Redington & Co., of New York.....	3,166 42
Hostetter & Smith, of Pittsburg, Pennsylvania, for merchandise.....	3,934 43
W. F. Brittan & Co., for goods.....	5,325 74
Pacific Mutual Insurance Company, as insurers of goods lost in Tycoon, and assignees of Franklin Carter, of Quincy, Massachusetts.....	2,400 00
Of J. Hiller & Bro., New York.....	623 00
Of H. Cohen & Co., of New York.....	5,200 00
Of Schloss Bros., of New York.....	300 00
Of W. H. Toole, of New York.....	2,906 00
Of John Keys, of New York.....	602 00
Of Frederick Victor and Achilles, of New York.....	3,030 00
Making a total of.....	15,121 00

The duly registered American ship Sonora, of 707 $\frac{3}{4}$ tons—whereof John W. Cushing, William Cushing, Nicholas Johnson, Elizabeth LeB. Mills, Thomas Pritchard, and William Pritchard, of Newburyport, Massachusetts, were sole owners—sailed from Hong Kong, in China, 26th November, 1863, bound to Akyab, in British India, to load with rice, or general merchandise, for Europe, under charter party made with C. F. Webert & Co., of London; was captured and burned near latitude 3° north, longitude 101° east, in the Straits of Malacca, on the 26th December, 1863.

The owners claim damages for value of ship, the 30th May, 1864.....	\$55,800 00
Also, for the value of charter of ship when destroyed.....	33,244 44
The Columbian Insurance Company claim, as insurers and assignees of William Cushing.....	30,000 00

Texas Star.—Samuel Stevens and John Atkinson, of Boston; George L. Rogers and Samuel B. Pike, of Newburyport, Massachusetts, allege that they were the owners of the American-built bark Texas Star, which they sold on the 9th December, 1863, to March Biddle Currier, of Maulmain, for 70,000 rupees, current in the British East Indies; the ship was registered at Maulmain under the name of Martaban, 707 $\frac{3}{4}$ tons burden, and mortgaged by the purchaser to the memorialists for 80,000 rupees, payable, with interest, at the rate of 5 per cent. per annum, on the 10th January, 1864.

The ship sailed from Maulmain in command of Captain Samuel B. Pike, 12th December, 1863, bound to Singapore. On the voyage, 24th December, 1863, the ship was taken by the crew of the Alabama, set on fire and totally destroyed, with her guns, stores, &c.

The mortgagees claim reparation.

Golden Rule.—The Panama Railroad Company, a corporation created under the laws of the State of New York, claim damages for the capture and destruction by the Alabama of the bark Golden Rule, of 254 $\frac{1}{4}$ tons, registered at New York, said Company and David H. Hoadley owning both ship and cargo.

The Golden Rule, on its way from New York to the port of Aspinwall, or Colon, in New Granada, was captured on the 26th day of January, 1863, by the Alabama, in latitude about 18° north, and longitude 75° west, and, after the removal of a portion of the cargo to the Alabama, was totally destroyed by burning, with the residue of the cargo remaining on board.

The damages claimed by said corporation are, for value of the Golden Rule and freight.....	\$16,000 00
And for that part of the cargo belonging to said corporation.....	1,406 00
Peter A. Whitebury, of New York, master of the vessel, claims for the loss of his clothing, nautical instruments, and other personal effects..	850 00
And in behalf of John Cassidy, the mate of said vessel, for loss of clothing and nautical instruments, the sum of.....	200 00

The Commercial Mutual Insurance Company of New York claims, as assignee of Wm. H. Knoepfel, for money paid by it on insurance of merchandise destroyed in the Golden Rule.....	\$728 00
The Commercial Mutual Insurance Company, the New York Mutual Insurance Company, and the Union Mutual Insurance Company, (all of New York,) claim, as assignees and reinsurers of the Orient Mutual Insurance Company, who, as insurers for \$4,000 to F. Probst & Co., of New York, of goods destroyed in said ship, had accepted an abandonment thereof, and reassigned one-half their claim to said claimants, the sum of.....	2,000 00
Charles W. Bond, of New York, late firm of Jansen Bond & Co., for goods.....	3,353 66
The Sun Mutual Insurance Company claim, as insurers and assignees of LeRoy & Co., of Hartford, Connecticut, upon merchandise.....	700 00
The Columbian Insurance Company of New York, as insurers upon cargo, and assignee of Ribon & Munoz.....	9,020 00
J. Hochendorf, jr., American merchant at Lima, assignee of Homer & Hochendorf, for merchandise.....	7,098 61
The Pacific Mutual Insurance Company claim, as insurers of merchandise and assignee of John Keeler, of New York, the sum of.....	800 00
The ship <i>S. Gildersleeve</i> , of 847 tons, of New York—whereof J. H. Brown & Co., of the city of New York; Sylvester Gildersleeve, Henry Gildersleeve, and Cicero Brown, of Portland, Connecticut, were owners, and John McCallum was master—sailed from Sunderland, England, to Calcutta, laden with coals; captured and burned, with its cargo and stores, on the 21st March, 1863, about latitude 12° 10' south, longitude 34° 55' east.	
The Commercial Mutual Insurance Company of New York claim damages as insurers of three-fourteenths of the hull, tackle, &c., of the ship, (valued at \$35,000,) for cash paid by them on abandonment of the assured, the sum of.....	\$7,500 00
The Sun Mutual Insurance Company of New York claim, as insurers of J. W. Brown & Co., upon their share of the vessel, paid on loss.....	10,000 00
Ship <i>Brilliant</i> .—Joshua Atkins and Edwin Atkins, of Brooklyn, New York, and George Hagar, master mariner, of Boston, Massachusetts, claim that they are the sole owners of the ship <i>Brilliant</i> , of New York, a duly registered American ship of 839½ tons, which sailed from New York 13th September, 1862, laden with grain, flour, &c., and bound to London, in which said owners had no other interest than their lien for freight. On the 3d October, 1862, the <i>Brilliant</i> was captured near latitude 40° north, longitude 50° 30' west, by the <i>Alabama</i> , and, after being plundered by her officers and crew, was set on fire and totally destroyed.	
The owners claim damages as follows:	
For the value of the ship.....	\$75,000 00
For amount of freight..... £3,415 9s. 8d.	
B. E. Clark & Co., (W. B. Astor and J. B. Hart,) of New York, for goods.....	3,211 80
The Atlantic Mutual Insurance Company, as insurers of John A. Atkins & Co., upon the freights.....	18,000 00
The New York Mutual Insurance Company.....	9,245 00
George Hagar, master, for loss of his personal effects, and for expenses of return.....	1,250 00
The bark <i>Olive Jane</i> —whereof Robert Kallock was master—sailed from Bordeaux 24th January, 1863, bound to New York, and on the 21st February, 1863, about latitude 20° 17' north, longitude 45° 15' west, was captured, pillaged, and burned.	
The Sun Mutual Insurance Company of New York claim damages as insurers and assignees of C. Mellette & Co., and also of C. A. de Vivier, of New York, on merchandise.....	\$767 66
The Columbia Insurance Company claim, as insurers of cargo, assignees of Charles Lord & Co.....	800 00
Of B. E. Clark & Co., on ship.....	2,069 00
The <i>Anna F. Schmidt</i> , a ship of 784½ tons burden, registered at New York—whereof Henry B. Trumbly was master, and Charles Williams, of Framingham; George C. Lord and Charles H. Lord, of Boston; Geo. W. Campbell, of Bradford; Moses J. Milliken, of Newburyport, Massachusetts; George Wise, Robert Smith, jr., of Kennebunk; and Moses M. Batter, of Portland, in the State of Maine, were the sole owners—sailed for San Francisco 17th January, 1863, and on the 2d July, 1863, about latitude 25° 29' south, longitude 37° 48' west, was captured, pillaged, and burned.	
The Sun Mutual Insurance Company of New York claim damages as insurers and assignees of Van Winkle and Duncan and Daniel Palmer, owners of merchandise destroyed with said ship.....	\$2,050 00

The owners claim damages for her capture and destruction for the difference between the value of the ship and a charter-party made thereof to Nathaniel Winson & Co., of Boston, and the sums insured thereon, the ship being valued at	\$30,000 00
And insured (by war policies) for \$22,000	8,000 00
The Washington Insurance Company of Boston, as insurers and assignees of China Mutual Insurance Company, reinsurance on ship	5,000 00
And of Winson & Co., on cargo and freight of ship	6,560 00
The New England Mutual Marine Insurance Company claims, as insurance, &c., of Charles Williams	8,000 00
Geo. Lord & Co., advances and captain's effects	10,500 00
On merchandise of Howard & French	1,300 00
On merchandise of F. Price & Co.	1,000 00
On merchandise of Thos. C. Lafavor	265 00
On merchandise of E. H. Baker & Co.	600 00

Making a total of 26,665 00

Pio Bisagno, Bartolomeo Bisagno, and Luigi Bisagno, of San Francisco, for goods lost	\$2,094 30
Metropolitan Insurance Company, New York, as insurers, &c., of Nash & Fogg, cargo destroyed	3,300 00
Horton, Hall & Co., Boston	700 00
Manufacturers' Insurance Company, (reinsurance)	5,000 00
Moses Ellis and Philip S. Weaver, of San Francisco, California, for goods lost on board	11,535 92
Levi Stevens, Colin Clark Baker, and Judah Baker, of San Francisco, California, for loss of commissions on goods consigned to them and lost on board, and for collecting general average of ship, (repaired before loss).	3,244 42
Dimon & Hubbard, of Malden, Massachusetts, for losses on board	905 36
Charles W. Bond, of 78 Cedar street, New York, of firm of Janson, Bond & Co., of San Francisco, for merchandise	670 00
Lewis Hecht, of Boston, Jacob Hecht and Isaac Hecht, of San Francisco, for merchandise lost	391 00

The American ship John A. Parks, duly registered at New York, of 1,046 $\frac{1}{2}$ tons burden—whereof James A. Cooper was master—sailed from New York 11th of February, 1863, bound to Montevideo, and was captured, pillaged, and destroyed by fire on the 2d March, 1863, about latitude 29° 15' north, longitude 38° 20' west.

The Sun Mutual Insurance Company of New York claim damages as insurers and assignees of Alexander S. Howard and Eldridge F. Rollins, of Boston, on their share of said ship	\$6,563 00
And of Nesmith & Sons, of New York, on merchandise destroyed	1,200 00
The Columbian Mutual Insurance Company of New York claim, as insurers of Walsh, Carver & Chase, on advances for ship	3,500 00
Of H. Cooper, jr., on ship	3,938 00
Of A. H. Howard, on ship	7,500 00
The Washington Insurance Company of Boston, as insurers of Peter Cooper upon one-quarter of ship	10,500 00

The ship Emma Jane, of Bath, Maine, of 1,096 tons burden—whereof David C. Magoun, ——— Clapp, and Francis C. Jordan were owners, and F. C. Jordan was master—sailed from Bombay 6th January, 1864, in ballast, bound to the port of Anchove for orders, and was captured 14th January, 1864, in latitude 8° 6' north, longitude 76° 10' east.

The owners claim for value of ship	£10,000
And for value of charter	5,462 5s.
The Columbian Insurance Company, as insurers of Magoun & Clapp, claim upon ship	\$20,000 00
And of C. C. Duncan on vessel	5,000 00

The ship Rockingham, of Portsmouth, 976 tons—whereof Albert L. Jones and Wm. P. Jones were sole owners—sailed from Callao 24th February, 1864, Edward Gerrish being master, bound to port in the United Kingdom, to touch at Cork for orders, and laden with guano. On the 23d April, 1864, about latitude 15° 53' south, longitude 30° 44' west, was captured and burned.

The Atlantic Mutual Insurance Company of New York claim value of ship, in their own right as insurers	40,000 00
And as assignees of William Jones & Son	50,000 00

Making 90,000 00

The Columbian Insurance Company, as insurers of William Jones & Son on ship	\$15,000 00
Ariel. —The Columbian Insurance Company claim damages for loss of cargo of the steamer Ariel, destroyed by the Alabama on the 7th December, 1862, as insurers and assignees of Ribon and Muñoz	\$8,500 00
Manchester. —The Columbian Insurance Company claim for loss of ship Manchester, destroyed by the Alabama, 11th October, 1862, as insurers of B. J. H. Trask, jr	\$10,000 00
Henings & Gosling, of New York, for wheat destroyed in the ship Manchester	6,646 32
The New York Mutual Insurance Company, as insurers on ship	7,500 00
Palmetto. —The Columbian Insurance Company claims, for loss of the Palmetto, captured by the Alabama, on 3d February, 1863, as insurers of C. & E. J. Peters, upon freight	\$500 00
Highlander. —The Highlander, (Jabez H. Snow, master,) sailed from Singapore to Akyab 26th December, 1863.	
The Columbian Insurance Company claims, as insurers of E. D. Peters & Co., upon the ship	\$15,000 00
Of same on freight	6,000 00
The Metropolitan Insurance Company of New York, as insurers of Edward D. Peters & Co., of Boston, upon the ship	15,000 00
The Dorcas Prince, of New York, an American vessel of 700 tons, Frank B. Melcher, master, sailed from New York, for Shanghai, 13th March, 1863, with general cargo, and was captured by the Alabama on the 26th April, 1863, about latitude 7° 30' south, longitude 31° 30' west; was plundered and burned, with her cargo and stores.	
The Columbian Insurance Company claims, as insurers of N. L. & G. Griswold, on ship	\$5,000 00
Ditto on freight	5,000 00
The Atlantic Mutual Insurance Company of New York, as insurers of N. L. & G. Griswold, upon cargo	12,000 00
Ditto of Brooks Bros., on cargo	276 00
Ditto of H. W. Gray, on cargo	750 00
The N. E. Mutual Insurance Company, as insurers of N. L. & G. Griswold, on ship	5,500 00
Ditto on freight	5,000 00
The ship Louisa Hatch, 853 tons, registered at Rockland, Maine—whereof Wm. Grant was master, and Wm. McLoon and Chas. W. McLoon were sole owners—sailed from Cardiff, for Pointe de Galle, laden with coals; was captured on the 4th April, 1863, about latitude 3° 13' south, longitude 26° 12' west, off Fernando de Noronha; the coal was put on the Alabama, and the officers and crew landed on that island; the vessel was then destroyed by fire.	
The owners claim for value of the ship	\$65,000 00
Loss on freight to Pointe de Galle	15,000 00
Provisions	2,000 00
Chronometer	250 00
Making a total of	82,250 00
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Crenshaw and Wave Crest. —Peter & Co., New York, claim for grain bags, destroyed with the Crenshaw, the sum of	\$638 80
Same firm, for losses on the Wave Crest, the sum of	1,095 00
The ship Express, of Boston, 1,073½ tons—whereof Wm. S. Frost was master—sailed from the Chincha Islands on the 5th March, 1863, laden with guano, and bound for Antwerp, under charter of Seccan & Co., of that city, and Seccan, Valleviano & Co., of Lima, Peru. On the 6th July, 1863, about latitude 29° south, longitude 31° 40' west, was captured and burned with cargo and stores, log, register, and mail.	
The Washington Insurance Company of Boston claim, as insurers of Richard Jenness, upon ship	\$2,000 00
On her freight	4,000 00
Of Daniel Marcy, on ship	6 000 00
The Courser.—Schooner registered at Provincetown, 121 tons—whereof Silas S. Youngs was master, and Henry Cook, Sylvanus Cook, Jonathan Cook, Alfred Cook, Samuel Cook, Eleazer Cook, Silas J. Youngs, Isaac F. Mayo, Geo. A. H. Lewis, John H. Mayo, Joseph Mayo, and Thomas Lewis, of Provincetown; John, James, and Leonard McKenzie, of Essex, Massachusetts, were owners—sailed from Provincetown 12th March, 1862, bound on a whaling voyage to the North Atlantic Ocean; was captured near the Island of Flores 16th September, 1862, and burned, with her cargo and stores.	

The owners claim, for the value of the schooner, outfit, &c \$12,462 47

Weather Gage.—The schooner Weather Gage, registered at Provincetown, of 100 $\frac{1}{2}$ tons—whereof Samuel C. Small was master, and Harvey Cook, Sylvanus Cook, Jonathan Cook, Samuel C. Small, Samuel Cook, Charles H. Dyer, Isaac W. Mayo, Jno. D. Mayo, and Joseph Mayo, of Provincetown; Leonard Ware, Ebenezer Arthur, Henry A. Baker, and Hiram Baker, of Boston; John, James, and Leonard McKenzie, of Essex, Massachusetts, were owners—sailed from Provincetown 4th August, 1862, bound on a whaling voyage to the North Atlantic Ocean, and, on the 9th day of September, 1862, near the island Coro, was captured by the Alabama and burned the next day, with her cargo and stores.

The owners claim, for the value of the schooner, outfit, &c \$10,220 50

The schooner Starlight—whereof Samuel Whitman, Seth Whitman, Daniel Eaton Lufkin, and Lemuel Whitman, of Deer Isles, Maine, were owners—sailed from Boston the 7th August, 1862, in ballast, with passengers, for Western Islands. On her return voyage, 2d September, 1862, was captured by the Alabama and burned.

The owners claim, for the value of said vessel, the sum of \$3,500 00

Chalmers S. Dawes, as charterer, and for value of provisions 725 00

Samuel H. Doane, master, for books, clothing, watch, and specie 330 00

William Williams, for chronometer 250 00

The Jabez Snow, registered at Newburyport, of 1,073 $\frac{3}{4}$ tons burden—Jabez Snow, Franklin Spofford, Henry Darling, Enoch Barnard, Joseph R. Fulson, of Bucksport, Maine; George H. Peters, William C. Peters, and Joseph B. Ellicott, of Boston, Massachusetts; Henry D. Brookman and John W. Brookman, of New York, sole owners—left Cardiff, Wales, April, 1863, laden with coals for Montevideo, under command of George W. Guin, and on the 29th May, 1863, latitude 15° south, longitude 34° west, was captured and burned.

George W. Guin, the master, of Bucksport, Maine, claims damages for wearing apparel and personal effects, merchandise belonging to him..

\$3,500 00

For loss of wages, primage, and profits on goods not insured 3,100 00

Making a total of 6,600 00

The bark Nye, of New Bedford, of the burden of 200 tons—Joseph B. Baker, master—sailed from the port of Saint Helena, on the 25th July, 1862, bound for New Bedford, laden with sperm and whale oil. On the 24th of April, 1863, in latitude 5° south, longitude 32° west, was captured and burned, with her cargo of 425 barrels of sperm, and 140 of whale oil.

The New England Mutual Marine Insurance Company claim, as insurers of Daniel Baker, upon catchings on said bark

\$700 00

Of Joseph Baker 1,000 00

Of Frederick Howland 650 00

The ship Levi Starbuck, duly registered at New Bedford, of 376 $\frac{1}{2}$ tons burden—whereof Edward W. Howland, Thomas S. Hathaway, Caleb Kempton, George Barney, and Cornelius Howland, jr., executors of Cornelius Howland, deceased; George Barney, William A. Gordon, and Wing Russell, all of New Bedford, were owners, and Thomas Mellen was master—sailed from New Bedford, October 28, 1862, on a whaling voyage to the North Pacific, and on the 2d November, 1862, in latitude 35° 40' north, longitude 56° west, was captured and burned by the Alabama, with her outfit and stores.

The owners claim damages to the amount of \$229,312 50.

They were insured as follows:

George W. Howland \$13,200 00

George Barney, *et al.*, executors 4,800 00

Thomas L. Hathaway 2,000 00

George Barney, (Mutual Insurance Company) 1,500 00

William A. Gordon, in Commercial Insurance Company, assignee 1,500 00

The Dunkirk—whereof C. Peters and E. J. Peters, of the city of New York, were owners, and Samuel B. Johnson, of Blackhill, Hancock County, Maine, was master—sailed from New York for Lisbon, September 30, 1862, and on 7th October, 1862, in latitude 42° 23' north, longitude 54° 30' west, was captured and burned, with her cargo, &c.

Captain Johnson claims for his share (one-half) of freight, after deducting \$2,000, recovered for insurance on entire freight, goods, and expenses

\$1,514 64

Isaac Sherman and Henry C. Wybert, of New York City, for goods lost in the ship Dunkirk, the sum of

607 60

The ship Benjamin Tucker, of New Bedford—Charles B. Tucker & Co., owners—was captured 14th September, 1862, and burned.

The owners claim for ship, outfit, and oil on board, and for damages by the breaking up of the voyage..... \$124,000 00

The bark Ocean Rover, of Mattapoisett, sailed 26th May, 1859, on a whaling voyage, and was captured 8th September, 1862, off the Island of Flores, and burned.

The owners claim for ship and outfit, oil on board, and damages for breaking up of voyage..... \$104,000 00

The brig Altamaha, of Sippican—S. C. Luce and others owners—sailed May 14, 1862, on a whaling voyage, and was captured 13th September, 1862, and burned, off the Island of Flores.

The owners claim for value of brig and outfit, and damages for breaking up of the voyage, the sum of..... \$15,450 00

SHENANDOAH.

The following is an abstract of the claims filed in the Department of State by American citizens, native and naturalized, and by corporations organized and doing business under the laws of the States in which they are respectively located, for damages sustained by them as the owners, mariners, freighters, or insurers of duly documented ships of the United States, and as owners, insurers, or otherwise interested in the cargoes of such ships, or in charter-parties for the service of such ships captured and destroyed, or appropriated by the officers and crew of the steamer Sea King, or Shenandoah.

The bark Delphine, 705½ tons burden, registered at Bangor, Maine—whereof Eliab Wright Metcalf and Samuel D. Thurston, of Bangor; Phineas Pendleton and William G. Nichols, of Searsport, Maine; Phineas Pendleton 3d, and William McGilvery, of the same place; Henry Darling, of Bucksport, Maine; Benjamin Carver, H. D. Brookman and John N. Brookman, of New York City, were owners—sailed October 12, 1864, laden with machinery and ballast, from Gravesend, bound to Akyab, and was captured December 29, 1864, in about latitude 39° 20' south, longitude 69° east, and became a total loss.

The owners claim as follows:

For the value of the ship	\$56,000 00
For outfit, expenses, and advanced wages.....	15,000 00
For value of charter for voyage.....	8,000 00
The master, William G. Nichols, for loss of primage, expenses of self and family in Australia and return, and merchandise	5,100 00

This claim, so far as William M. Gilvery is concerned, appears to be subject to a deduction for \$2,000, received by him on insurance by Columbian Marine Insurance Company, of New York, which that corporation will claim.

The bark Isabella, of 315½ tons burden, registered at New Bedford, Massachusetts—of which Thomas Knowles, John P. Knowles, Joseph Knowles, William O. Brownell, George Barney, Slocum Allen, John A. Wood, and Thomas H. Knowles, of New Bedford; Deborah D. Goddard, of Boston; Hudson Winslow, of Freetown; James S. Winslow, of Dartmouth; Reuben Nickerson, Jr., of Easthaven—all in Massachusetts; Henry Burding and Abner H. Davis, of New York; and Edward D. Mandell, of New Bedford, executor of Edward M. Robinson, were owners; and Hudson Winslow was master—sailed from New Bedford, September 29, 1863, on a whaling voyage to the Pacific Ocean. On the 26th of June, 1865, while beating through the Behring's Straits toward the Arctic Ocean, and in latitude about 64° 50' north, was captured, plundered, and burned, with her stores and cargo.

The owners claim for value of bark and outfit.....	\$60,000 00
Oil and whalebone on board	27,785 00
Loss by breaking up of voyage.....	174,600 00
New England Mutual Marine Insurance Company claim, as insurers of Hudson Winslow, on outfit and cargo.....	1,000 00
The Atlantic Mutual Insurance Company of New York paid on fire policies on bark and outfit	16,800 00

The bark Aliva, of 573½ tons, registered at Searsport, Maine—whereof Edward Staples, of Stockton, Maine; William McGilvery, of Searsport; John M. Lane, Joseph Cook, F. & P. Pendleton, Lebbeus Curtis, William F. Black, Woodman Cronin, and Robert Porter, of Searsport; and Benjamin Carver, of New York City, were owners; and the said Edward Staples was master—sailed from Newport, England, October 6, 1864, laden with railroad iron, and bound for Buenos Ayres; was captured, pillaged, and sunk, October 29, 1864, about latitude 16° 40' north, longitude 26° 45' west.

The owners claim for value of bark and outfit..... \$68,000 00

For freight under charter-party	\$15,000 00
The master, Edward Staples, for loss of primage, wages, and personal effects.....	3,817 43

The bark Susan, of 134 tons burden, registered at Sag Harbor, and enrolled at New York—whereof C. H. H. Meyer, of New York was sole owner, and F. W. Hansen, master—sailed from Cardiff, Wales, September 26, 1864, laden with coal, and bound for the coast of Brazil; was November 10, 1864, stripped and sunk.

The owner claims for value of vessel	\$12,000 00
And for freight money pending.....	2,500 00

The bark Edward, of 274½ tons burden—whereof Thomas Knowles, John P. Knowles, Joseph Knowles, John Knowles, 2d, John P. Knowles, jr., Charles Hitch, and Jonathan Brown, native, and Antoin Joseph, a naturalized citizen—all of New Bedford—sailed from New Bedford, August 2, 1834; was captured December 5, 1864, in latitude 37° 45' south, longitude 11° 50' west, about forty miles westward to Tristan d'Acunha, and burned.

The owners claim damages for value of bark, outfit, oil on board, and breaking up of voyage, (protesting against diminution thereof by reason of \$19,875 received by them upon insurance)	\$189,806 00
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The bark William C. Nye, 389½ tons burden, registered at San Francisco—whereof John C. Merrill, D. C. M. Ruer, Alfred Tabbs, George H. Moore, William How, Charles Hare, and P. H. Cooty, of San Francisco, were owners, and P. H. Cooty was master—sailed March 27, 1865, from the port of San Pedro, on a whaling cruise, in the Arctic Ocean; was captured by the Shenandoah, June 26, 1865, and burned.

The owners claim for value of bark	\$35,000 00
Boats and other outfits.....	20,000 00
Oil on board	7,087 50
Estimated damage in loss of future catching of oil.....	218,125 00

The Atlantic Mutual Insurance Company of New York as insurers of the Union Mutual Insurance Company of New Bedford, for the risk on ship and outfit.....	20,000 00
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The bark Gipsey, registered at New Bedford, of 110 tons burden—whereof Thomas Mandell and Sophia Ann Howland, of New Bedford; Edward M. Cleaveland, of Nantucket; and Edward Mott Robinson, of New York City, were owners, and Orlando G. Robinson, was master—sailed from New Bedford, May 28, 1862, for the Pacific Ocean, on a whaling voyage; was captured June 26, 1865, in latitude 64° 30' north, distant five or six miles from western shore of Behring's Straits, and burned.

The owners claim for value of bark	\$20,000 00
For whaling outfit	40,000 00
Oil and bone on board	10,663 75
Value of prospective catchings.....	49,075 00
The master, Orlando G. Robinson, for merchandise, fins, whalebone, whale teeth, &c.....	7,211 00
The first mate, John Callen, for whalebone, tobacco, clothing, and instruments.....	1,200 00
The Columbian Insurance Company of New York, as insurers of bark and outfit.....	14,000 00
The Atlantic Mutual Insurance Company of New York, insurers of bark and outfit.....	10,000 00

The ship Hillman, of 382½ tons burden, registered at New Bedford—whereof William G. Taber, John Hunt, deceased; Henry Tabert, James Arnold, Robert Tuckerman, William J. Rotch, Joseph Brownell, of New Bedford, and Mary E. Gordon, of Brooklyn, New York, were owners, and J. A. Macomber, master—sailed from Honolulu May 2, 1865, on a whaling voyage in the Arctic Ocean; was captured June 28, 1865, within the headlands of Cape East and the North Cape of St. Lawrence Bay, and burned.

The owners claim for value of vessel	\$20,000 00
Outfits, \$40,000, and oil on board \$10,489 75.....	50,489 75
Value of reasonable prospective catchings	54,675 00
John A. Macomber, master, for fins, shells, instruments, books, clothing, and expenses.....	962 00
The Atlantic Mutual Insurance Company of New York, as insurer of sundry owners on ship and outfits.....	21,500 00
As reinsurers of Union Mutual Insurance Company of New Bedford, on ship and outfit.....	4,750 00

The bark Congress, of 376 tons burden, registered at New Bedford—whereof Gideon Allen, Gilbert Allen, F. E. Stanbury, Joseph Clark, Pardon Tillinghast, Jonathan Smith, Eliza W. Allen, George Homer, and Frederick Homer were owners, and the said F. E. Stanbury was master—sailed from New Bedford June 3, 1863, for the Pacific and Arctic

Oceans; sailed from Honolulu under command of David D. Wood, the original master being sick, for the Arctic Ocean, and was captured June 28, 1865, between the headlands of Cape East and North Cape of St. Lawrence, and burned.

The owners claim for value of bark and outfit.....	\$56,000 00
Whale oil and bone on board.....	33,845 00
And for prospective catchings.....	53,075 00
Daniel D. Wood, master, personal effects, &c.....	982 00

The ship Isaac Howland, 399 $\frac{1}{2}$ tons burden, registered at New Bedford—whereof Edward D. Mandell, Charles R. Tucker, Sylvia Ann Howland, and Thomas Mandell, of New Bedford, and Edward Mott Robinson, of New York City, were owners, Jeremiah Ludlow, master—sailed from New Bedford October 19, 1864, for the Pacific and Arctic Oceans; captured June 28, near the point of Cape East and North Cape of St. Lawrence, plundered and burned.

The owners claim, subject to abatement, for insurance for value of ship and outfit.....	\$65,000 00
For oil and bone on board.....	48,554 00
And for prospective catchings.....	53,075 00
The Atlantic Mutual Insurance Company of New York, as insurers upon ship and outfit.....	16,250 00
And upon catchings.....	7,750 00
And as reinsurers of the Commercial Mutual Insurance Company of New York, on ship and outfit.....	14,000 00
Jeremiah Ludlow, master, personal effects.....	710 00

The bark Catharine, of 384 $\frac{1}{2}$ tons burden, registered at New London—whereof John Hemstead, James Smith, Thomas W. Williams, Henry P. Havens, Robert B. Smith, and Mrs. Eliza B. Edgar, of New London, and Samuel Willetts and Grinnell, Minturn & Co., of New York, were owners, and William H. Phillips was master—sailed from Honolulu April, 1865, for a whaling voyage in the Arctic Ocean; was captured June 26, 1865, in Behring's Straits, off Masenka Bay.

The owners claim for oil, about.....	\$18,328 75
James O'Donnell, of San Francisco, fourth officer, for goods, &c., half in catch.....	3,800 00
The Atlantic Mutual Insurance Company of New York, as insurers of ship and outfit.....	11,676 00
As reinsurers of Ocean Mutual Insurance Company upon ship and outfit.....	15,000 00

The bark Waverly, of 327 $\frac{1}{2}$ tons burden, registered at New Bedford—whereof David B. Kempton, Peleg Slocum, Frederick Slocum, Stephen N. Potter, (deceased,) William J. Rotch, Benjamin B. Covell, Rudolphus Beetle, and John A. Rodgers, of New Bedford, and Gideon Richmond, of Dighton, Massachusetts, were owners, and Richard Holley was master—sailed from Honolulu April 12, 1865, on a whaling voyage in the Arctic Ocean; was captured June 26, 1865, in Behring's Straits, and burned.

The Atlantic Mutual Insurance Company of New York claim, as insurers of ship and outfits.....	\$31,250 00
Richard Holley, master, personal effects and expenses.....	1,732 00

The Susan Abigail, of 159 $\frac{1}{2}$ tons burden—whereof Shed and Wright were owners—sailed from San Francisco on a whaling voyage, April 27, 1865, and was captured and burned in the Auyder Sea.

The owners claim for the brig, outfit, stores, and merchandise on board.....	\$41,123 37
And for estimated season's catch destroyed, and profits of trade in ivory.....	225,848 37

The bark Covington, of 350 $\frac{1}{2}$ tons burden, registered at Bristol and Warren—whereof Charles T. Childs, Shubal P. Childs, Guy M. Fessenden, of Warren, Rhode Island; John L. Jenks, of Edgartown, Massachusetts; Thomas L. Jenks, and Samuel Talbot, of Boston; David S. Wilson, Thomas G. Wilson, Henry R. Wilson, and James G. Wilson, of Baltimore, Maryland, were owners, and John L. Jenks, master—sailed November 22, 1864, from Honolulu, on a whaling voyage; was captured and burned June 28, 1865, in Behring's Straits.

The owners claim for the value of the bark (less \$12,748 75, received upon insurance policies).....	\$17,251 25
Loss of outfit, stores, and cargo.....	25,110 25
For prospective catch and profits.....	61,506 90
For effects, &c., of John C. Mosher, mate.....	514 00
Charles Smith Downs, seaman, for share of oil, wages, clothing, &c.....	889 00
The Atlantic Mutual Insurance Company of New York, as insurers of bark, catch, &c.....	15,000 00

The D. Godfrey—Samuel W. Hallett, master—from Boston October 6, 1864, to Val-

paraiso, with general cargo, burned November 7, 1864, in latitude 6° 25' , longitude 27° 15' west.

The New England Mutual Marine Insurance Company claim, as insurers upon merchandise on board, of the Ames Plow Company..... \$863 00

The bark Nimrod, registered at New Bedford, of 340½ tons burden—whereof William Gifford, of New Bedford; Nathaniel C. Casey, of Nantucket; Nehemiah P. Baker, of Falmouth; Luther Potter, Josiah Sherman, Wanton H. Sherman, and Isaac R. Gifford, of Westport, were owners, and James M. Clark was master—sailed from New Bedford, April 15, 1863, bound on a whaling voyage, and fitted for forty-eight months; was captured June 25, 1865, off Indian Point, in Behring's Straits, and burned, with cargo and stores.

The Atlantic Mutual Insurance Company of New York claim, as insurers of vessel and outfit..... \$28,000 00

The owners, protesting against any diminution of their damages by reason of the receipt of insurance by them, claim for loss of vessel and outfit, whale oil and bone on board, and damages by breaking up the voyage..... 238,280 87

Wellington Weaver, of San Francisco, late first officer, for personal effects, share in the catch of oil and bone, and in prospective catchings 8,500 00

The ship Euphrates, of 364½ tons, registered at New Bedford—whereof Edward W. Howland, Joseph Grinnell, George Barney, and Cornelius Howland, jr., executors of Cornelius Howland, deceased; George Barney, in his own right; and Frederick S. Gifford of New Bedford; Abraham R. Gifford, of Westport, Massachusetts; Andrew Howland, of Boston; and Henry Grinnell, of New York, were owners; and Thomas B. Hathaway was master—sailed from Honolulu April 29, 1865, on a whaling voyage; was captured June 21, 1865, near Behring's Straits, and about fifteen miles northeast of Cape Madeus, with cargo and stores.

The owners claim, for value of ship and outfits, oil and whalebone on board..... \$67,813 50

For damage in breaking up voyage..... 100,875 00

Of the owners, Joseph Grinnell and Henry Grinnell were insured, and had received payment of their losses to the extent of..... 9,750 00

The other owners had no indemnity or satisfaction.

The ship Edward Casey, 357½ tons burden, registered in San Francisco—whereof Charles Hare, of San Francisco, was sole owner, and George D. Baker was master—sailed from San Francisco January 22, 1865, on a whaling voyage. The ship and outfit, having cost \$42,982 20, was captured and burned April 3, 1865, in latitude 6° 50' south, longitude 168° east.

The owners claim for loss of ship, and outfit and breaking up of voyage.. \$109,582 70

The ship Abigail, 309½ tons burden, registered at New Bedford—whereof Laren Snow, Oliver Crocker, George O. Crocker, Pardon Tillinghast, of New Bedford; and Ebenezer F. Nye, of Picasset, Massachusetts, were owners, and the said Nye was master—sailed from Yokohama April 13, 1865, on a whaling voyage; was captured and burned May 27, 1865, off Cape Oliver, in Ochotsh Sea.

The owners claim for bark, outfit, oil on board..... \$61,543 50

Damages, by breaking up voyage..... 169,849 20

Ebenezer F. Nye, master, for loss of goods, on board..... 12,505 00

James F. Taber, mate, for private effects..... 610 50

The bark Josiah Swift, 454½ tons burden, registered at New Bedford—whereof Jireh Swift, jr., Frederick S. Allen, Oliver Crocker, George O. Crocker, Thomas W. Williams, Pardon Tillinghast, James H. Howland, Abraham Dellano, Allen Case, Joseph Clark, Nancy S. Billings, of New Bedford; Humphrey H. Swift, and William A. Russell, of New York, were owners, and Thomas W. Williams was master—sailed from Honolulu on a sailing voyage April, 1865; was captured June 22, 1865, off Cape Thaddens, in the North Pacific Ocean, and burned.

The owners claim for damages..... \$223,587 50

Thomas W. Williams, master, private effects..... 963 00

James O. Aveline, first mate..... 180 25

The ship General Williams, 419½ tons burden, registered at New London—whereof Charles Barnes, Henry R. Bond, Acors Barnes, William H. Barnes, of New London; William Williams and Harriet F. Williams, of Norwich; George C. Benjamin, of Boston; and Grinnell, Minturn & Co., of New York, were owners; William Benjamin, master—sailed from Honolulu December 22, 1864, on a whaling voyage in the Arctic Ocean; was captured and burned June 25, 1862, near island of St. Lawrence.

The owners claim damages by her destruction, (over and above \$44,673

20 net insurance received by them)..... \$40,503 85

William Benjamin, master..... 1,215 00

Assa Benjamin, first mate.....	\$270 00
The Atlantic Mutual Insurance Company of New York, as insurers of ship, outfit, and catchings.....	23,792 00
The bark Favorite, 293½ tons burden, registered at New Bedford—whereof Farman R. Whitwell and Hannah Whitwell, of Fair Haven; Thomas G. Young, of Portland, Maine; Anna E. W. Richardson, of Nunda; and George W. Moore, of Brooklyn, New York, were owners; Thomas G. Young, master—sailed from Kanagawa April 23, 1865, on a whaling voyage in the Arctic Ocean; was captured and burned June 28, 1865, while beating up Behring's Straits.	
The Atlantic Mutual Insurance Company claim, as insurers and assignees of the owners, for loss paid on vessel and outfit.....	\$40,000 00
Thomas G. Young, late master, for loss of private effects.....	1,498 25
The schooner Lizzie M. Stacey.—Francis M. Ashton, of Salem, Massachusetts, late an officer of the schooner Lizzie M. Stacey, destroyed by the Shenandoah near latitude 1° north, longitude 28° west, claims for loss of wages books, expenses, and personal injury.....	3,050 00
Ship Nassau.—Mrs. William C. Paine, of Boston, claims for her share one-eighth of the ship Nassau, burned in the Arctic Ocean June 23, 1865	10,000 00
The bark Martha.—Joshua L. Macomber, late master of the bark Martha, of New Bedford, for personal effects, &c.....	3,175 00
James Bowden, first mate.....	700 00
Charles H. Smith, second mate.....	625 00
Ship Sophia Thornton.—John W. Thompson, late chief mate of ship Sophia Thornton, of New Bedford, claims for loss of personal effects, expenses, &c.....	674 00

FLORIDA.

The following is an abstract of the claims filed in the Department of State by American citizens, native or naturalized, and by corporations organized and doing business under the laws of the State in which they are respectively located, for damages sustained by them, as the owners, mariners, freighters, or insurers of duly documented vessels of the United States, captured and destroyed or appropriated by the officers and crew of the steamer Florida, and as owners, insurers, or otherwise interested in the cargoes of such ships, or in charter-parties for the service of such ships:

The Red Gauntlet, of Boston, a ship of 1,038 tons burden—whereof A. H. Lucas was master, and Francis Boyd, of Boston, was owner—sailed from Boston, May 22, 1863, laden with ice and general cargo, for Hong Kong, China, a portion of the cargo belonging to said Francis Boyd, and the remaining capacity of the ship, after reserving room for coal for ballast, was chartered to Everett & Co., of Boston, for the outward voyage, for \$12,000, in Mexican dollars. On June 14, 1863, in about latitude 8° 30' north, longitude 34° 40' west, was captured, the cargo plundered, from day to day, by the officers and crew of the Florida, and the ship and remainder of the cargo burned June 26, 1863, in longitude 47°, latitude 29° north, or thereabouts.

The owner claims, for himself and his underwriters, as follows, viz:

For value of ship and outfit.....	\$56,000 00
For value of part of cargo belonging to him.....	9,294 79
For value of charter on outward voyage.....	18,624 44
Including exchange on ———, less value of homeward freight.....	25,000 00
The Sm Mutual Insurance Company of New York, as insurers of Everett & Co., on cargo.....	9,000 00
The Atlantic Mutual Insurance Company of New York, as insurers upon cargo of Thomas B. Everett.....	4,200 00
Same company, as insurers upon cargo of Henry P. Blanchard.....	1,000 00

The ship Commonwealth, of 1,275½ tons burden, registered at New York—whereof George S. McClellan was master, and Nehemiah P. Mann, Nehemiah P. Mann, jr., Adrian J. Mann, of Boston; Messrs. Charles L. Colby, of the city of New York; Gardner Colby, of Boston; Thomas Hastings, Henry Scudder, Thomas M. Hastings, Albert Dunbar, of Brewster, Massachusetts; Frederic Dunbar, of Yarmouth, Massachusetts; George Cogswell, of Bradford; William N. Botson, now deceased, of Boston; and the said George S. McClellan, were owners—sailed March 19, 1863, laden with general cargo and government stores, for San Francisco; was captured, plundered, and burned April 17, 1863, about thirty miles south of the equator, in longitude about 30° west.

N. P. Mann & Co. claim, as owners of one-fourth of ship and of freight....	\$22,250 00
The Metropolitan Insurance Company of New York, as insurers of Dunbar & Colby, on freight.....	2,000 00
Geo. J. Brooks & Co., of New York, for merchandise.....	1,235 00

Dimon Hubbard, of Malden, Massachusetts	\$635 50
Thomas Emery's Sons, of Cincinnati, claim for merchandise and premium of insurance	4,488 20

The Atlantic Mutual Insurance Company of New York claim, as insurers and assignees upon cargo, as follows:

Of E. & H. T. Anthony	\$353 00
Dunbar, Hobart & Co.	4,637 00
Hertzog & Co.	5,000 00
J. B. Newton & Co.	2,000 00
Zorn & Co.	60 00
Kennedy & Bell	6,891 00
H. W. Bragg & Co.	1,141 00
W. S. Bancroft	1,000 00
Willet C. Ward & Co.	2,583 00
C. H. Benedict & Co.	4,050 00
John D. Wing	1,400 00
N. Kellogg & Co.	397 00
Hawley & Co.	1,000 00
Kelly, Mott & Co.	484 00
Charles W. Crosby	1,870 00
Robert L. Taylor	4,000 00
Roes, Dempster & Co.	7,227 00
Brewster & Co.	1,445 00
S. Hausmann	1,600 00
Demas S. Barnes & Co.	1,200 00
J. H. Cogghill & Co.	3,500 00
C. H. Grant & Co.	500 00
Charles W. Crosby & Co.	7,150 00
Mitchell Vance & Co.	300 00
Kelly, Mott & Co.	2,216 00

Making, in all, the sum of

62,044 00

Robert Morrison & Co. claim for merchandise

\$6,394 20

The Pacific Mutual Insurance Company of New York claim, as insurers and assignees upon property, as follows:

Of Morris Speyer	\$1,855 00
W. S. Toole	1,100 00
William Seligman & Co.	7,500 00
Cornelius Comstock	2,818 00
John Keys	291 00

Making, in all, the sum of

13,564 00

The Sun Mutual Insurance Company of New York claim, as insurers of merchandise in the Commonwealth and by subrogation to the rights of Josiah Macy's Sons, of New York, for \$1,287, and H. Dopmann & Co., of New York, for \$1,600—making

\$2,887 00

The Columbian Insurance Company of New York claim, as insurers upon freight of Dunbar & Colby, \$10,000; of same primage, \$2,000; of same cargo, \$5,000; B. Marche & Brother, cargo, \$428—making

17,428 00

Van Winkle & Duncan, of New York, claim for merchandise lost	893 09
Hostetter & Smith, of Pittsburg, Pennsylvania, claim for merchandise lost	2,072 09
Coffin, Reddington & Co., of New York, claim for merchandise lost	3,342 63
Murphy, Grant & Co., of New York, claim for merchandise lost	15,288 77
Van Antwerp and Mapol claim for merchandise lost	714 18

Emanuel Rosenfeldt and Jacob Rosenfeldt, of New York City, claim for merchandise

18,744 96

J. Heller & Brothers, at New York, and M. Heller & Brothers, at San Francisco, (one firm,) claim for merchandise

4,008 24

James de la Montanya, of San Francisco, claims for merchandise

1,375 15

Jacob Zack, of San Francisco, claims for loss

1,253 96

John Taylor, of San Francisco, claims for goods

904 88

John Young Hallock, Miles B. Carpenter, Harry C. Parker, and Christian Christiausen, of San Francisco, claim for goods lost

2,948 80

David Nichols Hawley, Walter Nichols, and George Thomas Hawley, of San Francisco, claim for goods lost

8,496 19

Thomas Day, of San Francisco, claims for goods

5,316 69

Charles William Armes, George Willis Armes, and Richard B. Dallahu, of San Francisco, claim for goods lost.....	\$1,903 61
Joseph Pollock, of New York, and Leopold Pollock, of San Francisco, claim for goods destroyed.....	253 80
Edward Burke, Benjamin and William Franklin Whittier, of San Francisco, claim for goods destroyed.....	1,745 94
H. Cohen & Co., of New York and San Francisco, claim for merchandise..	5,222 35
John E. Louer, of New York, claims for goods lost.....	474 18
William Heller, of New York, Louis Sacks and Martin Sacks, of San Francisco, California, claim for goods lost, (subject to reduction of \$4,192 for insurance)	9,683 00
The New England Mutual Marine Insurance Company claim, as insurers upon ship Commonwealth, of Harry Scudder & Co.....	5,000 00
Of Dunbar & Colby.....	17,500 00
The American ship Jacob Bell, of 1,380 $\frac{1}{2}$ tons burden, registered at New York—whereof Charles H. Frisbie was master, and Abril A. Low, Josiah O. Low, Edward H. R. Lyman, and Harriet W. Bell, of New York City; Susan D. Brown, of Princeton, and Frederick F. Cornell, of Somerville, New Jersey; Frederick L. Washburne, of Boston; Edward King and William H. King, of Newport, Rhode Island, were sole owners—sailed from Fou-Chou, China, November 8, 1862, with a cargo for New York; was captured and burned, with the cargo, February 12, 1863, in latitude 24° north, longitude 65° 58' west, by the Florida.	
A. A. Low & Brothers claim, as owners and assignees of the ship and cargo, as follows:	
For value of ship, (\$10,000 only insured)	\$22,783 00
Merchandise, (on which \$45,000 insurance).....	94,922 30
The Pacific Mutual Insurance Company claims, as assignees of A. A. Low & Brothers, on merchandise.....	10,000 00
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The Atlantic Mutual Insurance Company of New York claim, as insurers upon cargo of Jacob Bell, and assigness of Pickering, Winslow & Co., of Boston.....	\$1,600 00
Of Williams & Hall, Boston.....	5,600 00
Young & Emmons.....	9,000 00
Bercklin & Crane.....	8,312 00
Weston & Grey.....	93,563 00
Frothingham & Bailey.....	3,000 00
Olyphants, Son & Co.....	3,808 00
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Amounting to.....	124,883 00
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The Commercial Mutual Insurance Company, of New York, claims, as insurers of ship and cargo, and assignee of A. A. Low & Brothers, on threewentieths of hull, &c.....	\$17,500 00
Mrs. Martha N. Williams, of Utica, N. Y., claims for furniture, books, and clothing, and other personal effects, (in gold).....	1,653 18
Charles W. Johnson, minor son of John W. Johnson, American missionary at Swatow, claims for clothing, &c., (in gold).....	200 00
The Sun Mutual Insurance Company, of New York, claim, as insurers and by subrogation to the rights of sufferers by loss of the Jacob Bell.....	22,119 00
The Onedia, an American ship of 420 $\frac{1}{2}$ tons burden, duly registered at New York—whereof Thomas S. Hathaway, of New Bedford, was sole owner, and Jesse F. Potter was master—sailed from Shanghai, January 24, 1863, with a cargo partly as freight and partly on owner's account, and was captured April 24, 1863, in latitude 1° 40' south, longitude 29° 10' west, by the Florida, pillaged and burned, with cargo and stores.	
The owner claims damages as follows:	
For losses on vessel, valued at \$25,000, deducting amount paid by underwriters, \$15,000—less premium of insurance, \$1,802—\$13,198, making loss on ship.....	\$11,802 00
For loss on cargo, after deducting the sums paid by underwriters, less premium.....	73,542 24
Loss on freight list, after deductions.....	1,294 37
The Metropolitan Insurance Company, of New York, claim, as reinsurers and assignees of the Baltimore Marine Insurance Company, on the cargo.	5,000 00
The Washington Insurance Company, of Boston, claims, as reinsurers of the New York Mutual Insurance Company, upon cargo, of Thomas S. Hathaway.....	5,000 00
The Pacific Mutual Insurance Company claim, as insurers of profits on cargo, of T. S. Hathaway.....	10,000 00

The Sun Mutual Insurance Company, of New York, claims, as insurers of cargo.....	\$42,179 00
The Columbian Insurance Company, of New York, claims, as reinsurers of Sun Mutual Insurance Company on cargo.....	40,000 00
The New England Mutual Marine Insurance Company claims, as insurers and assignees of Thomas S. Hathaway, on the profits of the ship.....	20,000 00
As reinsurers of Mercantile Mutual Insurance Company	3,300 00
The American ship <i>Star of Peace</i> , of 941½ tons burden, duly registered at Boston—whereof Charles Hill and Charles F. Hill, of West Roxbury; John Currier, jr., of Newburyport, Massachusetts; and William Lambert, of Portsmouth, New Hampshire, were the sole owners, and Francis M. Hinckley was master—sailed from Calcutta, December 8, 1862, with cargo, bound for Boston, and was captured by the <i>Florida</i> , March 6, 1863, in latitude 15° north, longitude 54° west, plundered and burned, with remaining cargo. The owners claim the value of the ship and outfit, \$53,500; for freight and cargo, \$27,384	
The Washington Insurance Company, of Boston, claim, as insurers and assignees of Charles Hill, on ship.....	\$83,884 00
Of B. H. Lisbee, upon profits on property of ship.....	6,000 00
Henry DuPont, Eleuther DuPont, Lammont DuPont, and Eugene DuPont, of Wilmington, Delaware, claim for cargo	8,000 00
The Commercial Insurance Company, of New York, claim, as insurers and assignees of Curtis & Peabody, of Boston, upon merchandise.....	22,000 00
As reinsurers of the Orient Mutual Insurance Company of New York.....	10,000 00
The Pacific Mutual Insurance Company, of New York, claim, as insurers and assignees of E. J. DuPont, DeNemours & Co., of Wilmington, on merchandise	3,815 00
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The Sun Mutual Insurance Company, of New York, claim, as assignees or subrogated to the rights of parties damaged by the loss of the ship, as follows:	
Curtis & Peabody, of Boston, upon profits on merchandise.....	\$8,000 00
B. H. Silsbee, upon merchandise.....	8,652 00
E. J. DuPont, DeNemours & Co., of Wilmington, Delaware.....	15,000 00
The Manufacturers' Insurance Company, of Boston, (on reinsurance).....	10,000 00
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In all.....	41,652 00
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The Columbian Mutual Insurance Company, of New York, claim, as insurers and assignees of Charles F. Hill, upon freight and vessel	\$10,000 00
The Atlantic Mutual Insurance Company claim, as insurers and assignees of J. S. Farlon & Co., Hiram Hutchinson, Young & Emmons, J. G. Wild, and W. H. Goodwin, T. Salter, Frederick Dan, Dana & Co., George M. Baupond, and W. C. Codman—in all	109,749 00
The New England Mutual Marine Insurance Company, of Boston, claims, as insurers of John S. Farlon & Co.....	2,500 00
As reinsurers of China Mutual Insurance Company.....	10,000 00
The ship <i>Electric Spark</i> , of Philadelphia, of 810 tons burden—whereof William J. Taylor, of Philadelphia, was owner, and John C. Graham was master—sailed from New York, July 9, 1864, bound for New Orleans, with a full cargo, and was captured by the <i>Florida</i> , July 10, 1864.	
The owner claims for the value of the vessel, her outfit, and coal	\$168,000 00
Edward Anthony, H. T. Anthony & Co., claim for merchandise.....	1,708 51
The Pacific Mutual Insurance Company, of New York, claims, as insurers upon cargo.....	48,153 00
The Commercial Mutual Insurance Company, of New York, as insurers upon cargo.....	350 00
The Pacific Mutual Insurance Company, of New York, claim, as insurers and assignees of Isaac Hobart, of New York, on cargo.....	48,153 00
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The Columbian Insurance Company, of New York, claims, as reinsurers of Mutual Insurance Company, on cargo	\$40,000 00
Of J. R. Bassett, on cargo	900 00
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40,900 00	
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Samuel Perry, Charles S. Perry, and S. B. Potter, claim for merchandise lost.....	\$2,455 09
Tuthill, Miller & Co., of New York, claim for merchandise lost.....	598 32
The ship <i>Avon</i> , of Boston, of 946½ tons burden, duly registered at Kennebunk—	

whereof Hartley Lord and Henry C. Lord, of Boston; Daniel Cleares and John W. Deering, of Saco; George Wise and M. C. Matting, of Kennebunk, Maine; and Alfred Howes, of Dennis, Massachusetts, were the sole owners; and the said Alfred Howes was master—was laden with a cargo at Howland's Island, in the Pacific Ocean, for Queens-town, Ireland, for orders, and thence to a port of discharge; she sailed from Howland's Island, December 31, 1863, and was captured by the Florida, March 29, 1864, plundered, and burned on the next day, with her cargo.

The owners claim for value of the vessel, \$80,000, and for freight on charter money, \$50,000—making.....	\$130,000 00
Alfred Howes claims for loss of primage, money, chests, instruments, &c..	3,000 00
And H. C. Flinn, mate, for wearing apparel, &c.....	500 00
The Sun Mutual Insurance Company, of New York, claim, as insurers, and by subrogation to the rights of Hartley, Lord & Co.....	9,000 00
The Columbian Insurance Company, of New York, claim, as insurers upon cargo of Gliddon & Williams.....	7,000 00

The ship Crown Point, of 1,098½ tons burden, duly registered at the port of New York—whereof John N. Grist was master—sailed from New York, April 9, 1863, bound for San Francisco, and on the 13th of May, 1863, about seventy miles northeast from Pernambuco, was captured and burned, with her cargo, by the crew of the Florida.

Fuller, Lord & Co., of New York, claim for merchandise lost.....	\$5,280 28
S. Morris, Locke & Montague, of New York, claim for merchandise.....	1,675 74
The Commercial Mutual Insurance Company, of New York, claim, as insurers and assignees of John Chadwick, of New York, on merchandise lost.....	2,000 00
And of Jay L. Adams, of New York, on merchandise lost.....	2,800 00
The Atlantic Mutual Insurance Company, of New York, claim as insurers of cargo, and assignees of Searles & Williams, \$315; Weis, Keller & Co., \$4,162; Brewster & Co., \$625; C. Floyd Jones, \$522; Ross, Dempster & Co., \$2,137; J. B. Newton & Co., \$1,000; U. S. Bancroft, \$550; Stephen Prichard, \$3,000; Scholle Bros., \$2,600; Kelly, Mott & Co., \$354; Rob. L. Taylor, \$1,200; R. W. Ropes & Co., \$300; J. H. Coghill & Co., \$1,780; Eugene Kelly, \$21,499; E. N. Kellogg & Co., \$812; George Howes & Co., \$8,000; Fleischmann & Cohn, \$176; S. Straus, Bros. & Co., \$8,500; Freeman & Simpson, \$1,300; Charles W. Crosby, \$2,091; Underhill & Co., \$2,091—making in all the sum of.....	63,453 00
William Ward Peck, of Brooklyn, N. Y., claims for goods lost.....	1,091 68
Dimon Hubbard, of Malden, Mass., claims for merchandise lost.....	1,308 98
George J. Brooks & Co., of New York, claims for merchandise lost.....	415 91
Coffin, Reddington & Co., of New York, claims for goods lost.....	2,906 92
The Pacific Mutual Insurance Company, of New York, claim, as insurers and assignees of John Keys, of New York, upon cargo.....	198 00
Thomas Emery's Sons, of Cincinnati, for merchandise lost.....	3,534 30
The Metropolitan Insurance Company, of New York, claim, as insurers and assignees of Roberts, Morrison & Co., on cargo.....	1,700 00
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The Sun Mutual Insurance Company, of New York, claims damages by loss of Crown Point, as insurers of merchandise subrogated to Steinway & Sons for.....	\$375 00
And J. M. & J. N. Plumb, all of New York.....	5,244 00
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In all.....	5,619 00
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The Columbian Insurance Company, of New York, claim, as insurers of freight of Henry Cook.....	\$15,000 00
On cargo of Neustadter Bros.....	4,100 00
L. P. Rose.....	621 00
Clark & Wilber.....	3,254 00
L. McMurray & Co.....	900 00
Holmes, Goodwin & Co.....	7,250 00
Dunbart, Hobart & Co.....	2,162 00
Clark Wilber.....	1,272 00
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Making..... 34,559 00

Van Winkle and Dunn, of New York, claim for merchandise lost.....	\$168 77
Coffin, Reddington & Co., of New York, claim for merchandise lost.....	2,906 92
J. Heller & Bros., of New York, and M. Heller & Bros., of San Francisco, claim for goods lost.....	7,378 59

Lysander Button, of New York, assignee of Robert Blake, of the same place, and in his own right, claims for merchandise lost.....	\$1, 137 25
James de la Montanya, of San Francisco, claims for merchandise lost.....	5, 590 43
The New England Mutual Marine Insurance Company, of Boston, claims, as insurers and assignees of F. Pierce & Co., on property lost.....	2, 500 00
Of Curtis Peabody on vessel.....	22, 500 00
On reinsurance of Manufacturers' Insurance Company.....	3, 000 00
John Young Wallach, Miles B. Carpenter, Henry C. Parker, and Christian Christianson, of San Francisco, claim for goods lost.....	1, 772 14
David Nicholas Hawley, Walter Nichols Hawley, and George Thomas Hawley, of San Francisco, claim for goods lost.....	6, 255 03
John Wesley Britton, Alexander Dunbar, McDonald Kimball, and C. Eldridge, of San Francisco, claim for goods lost.....	2, 491 57
The California Mutual Marine Insurance Company of San Francisco claim, as insurers of goods lost, and as assignees of Cameron, Whittier & Co.....	3, 398 30
And J. R. Coghill & Co.....	350 00
D. J. Oliver.....	6, 337 00
Joseph Pollock, of New York, and Leopold Pollock, of San Francisco, claim for goods destroyed.....	932 28
Abraham S. Rosenbaum, Joseph Brandenstein, of New York, and Moses Rosenbaum, of San Francisco, claim for goods lost.....	6, 754 20
H. Cohen & Co., of San Francisco, claim for merchandise lost.....	5, 685 74
John E. Louer, of New York, claims for goods lost.....	384 00
William Heller, of New York, Louis Sachs and Martin Sachs, of San Francisco, California, claim for goods lost.....	9, 604 61
David Alexander Sermisen, Robert Seckin Sermisen, and Daniel Bussier Phillips, of Brooklyn, New York., claim for goods lost.....	307 00
The American schooner Aldebaran, of 189½ tons burden, duly enrolled at the port of Brookhaven, and afterwards registered at the port of New York—whereof Nehemiah Hand and Robert W. Hand, of Setauket, New York, were the sole owners, and the said Robert W. Hand, master—sailed from New York, February 27, 1863, laden with a general cargo, and bound for Maranhham, and was captured March 13, 1863, about latitude 29° 16' north, longitude 51° 10' west, by the Florida, plundered and burned. The cargo was certified to belong to Packenham & Beattie, English merchants at Maranhham, and was insured in London.	
The owners claim, for value of the vessel.....	\$20, 000 00
Stores.....	500 00
Sail and sail-cloth.....	1, 698 85
Wages advanced.....	160 00
Master's personal effects.....	738 00
Expenses coming home from Scotland.....	450 00
Other expenses.....	70 00
In all.....	24, 556 85

The ship Southend Cross, of Boston—whereof Benjamin P. Howes was master—sailed from Bella Vista, Mazatlan, in the Gulf of California, on the 2d March, 1863, laden with a cargo for New York. On the 6th of June, 1863, she was plundered and burned by the Florida.

The New England Mutual Marine Insurance Company claim, as insurers of Baker & Morrell, on ship..... \$30, 000 00

The brig William C. Clark, of Boston, of 328 tons burden—whereof Benjamin R. Redman, was master—sailed on June 3, 1864, from Machias, bound with cargo for Matanzas; on the 17th June, 1864, in latitude 30° 5' north, longitude 64° 30' west, she was captured by the Florida.

The New England Mutual Insurance Company claim, as insurers on said brig, of Pendleton & Rose..... \$5, 000 00

The schooner Rienzi, of Provincetown, Massachusetts—whereof Gideon Bowley and Joshua E. Bowley, of Provincetown, were owners—sailed from Provincetown, June 1, 1863, on a whaling voyage in the Atlantic, and was captured by the Florida on July 8, 1863, about seventy miles southwest of Martha's Vineyard and burned, with twenty barrels of oil on board.

For which vessel, stores, and oil, the owners claim damages..... \$8, 487 00

The bark Lapwing, of New York, of 590½ tons burden, duly registered at the port of Boston, Massachusetts—whereof Eben Bacon and William B. Bacon, of West Roxbury, Massachusetts, and Daniel G. Bacon, of New York City, were the sole owners, and James Bolger, master—sailed from Boston, March 9, 1863, laden with coal, provi-

sions, and other merchandise, for Batavia and Singapore. On the 26th March, 1863, about latitude $31^{\circ} 31'$ north, longitude $32^{\circ} 30'$ west, was captured by the Florida, and became a total loss.

The Atlantic Mutual Insurance Company of New York claim, as insurers and assignees of D. G. & W. B. Bacon.....	\$30,000 00
And on $\frac{1}{3}$ of certain merchandise belonging to the same parties.....	25,000 00
Making in all.....	<u>55,000 00</u>

GEORGIA.

The following is an abstract of claims filed in the Department of State for the capture and destruction of duly registered and documented vessels of the United States, by the owners, mariners, freighters, and insurers of such vessels, and of the cargoes thereof, or otherwise interested in such cargoes, or in charter-parties for the service of such ships, which ships and cargoes were captured and appropriated or destroyed by the officers and crew of the Georgia, formerly called the Japan, a British vessel, fitted out and manned in British ports.

The Constitution, of 997 $\frac{1}{2}$ tons, a ship registered at the port of Philadelphia—whereof Joseph Welsford, of New York City, was sole owner, and Joseph Webster master—sailed from Philadelphia, April 27, 1863, laden with coal and bread, for Shanghai, China; was captured June 25, 1863, near the island of Trinidad, in latitude $20^{\circ} 30'$ south, longitude $29^{\circ} 16'$ west, plundered, and kept by the captors.

The Mercantile Mutual Insurance Company of New York claim, as insurers upon the said ship and upon freight.....	\$12,500 00
The Columbian Insurance Company of New York, as insurers upon ship and freight.....	10,000 00
As insurers of Joseph Webster on cargo.....	3,500 00

The ship Bold Hunter, of 797 $\frac{1}{2}$ tons burden, registered at the port of Charlestown and Boston—whereof Paul Sears and Reuben Hopkins, of Boston; Rowland H. Crosby, of West Cambridge; James Smith, of Cambridgeport; Alexander H. Childs, of Barnstable; Solomon Taylor, of Yarmouth; and William M. Bateson, of New Orleans, were owners; Rowland H. Crosby, master—sailed from Dundee, September 10, 1863, laden with coals, and bound for Calcutta; was captured October 9, 1863, about latitude 19° north, longitude $20^{\circ} 35'$ west, pillaged, and burned.

The owners of fifteen-sixteenths of the ship claim, for the value of their interest.....	\$50,625 00
The Washington Insurance Company of Boston, as insurers of Brace Bateson, on ship.....	3,000 00
The Sun Mutual Insurance Company of New York, as insurers of the ship and freight.....	7,000 00
The Columbian Insurance Company of New York, as insurers upon ship.....	16,000 00

The ship Dictator, of 1,293 tons burden, registered at New York—whereof Charles R. Given was sole owner—sailed from Liverpool, April 6, 1863, bound to Hong Kong, China; was captured and burned April 25, 1863, in latitude 25° north, longitude $21^{\circ} 50'$ west.

The owner claims for value of ship and outfit.....	\$90,390 00
For value of freight.....	16,180 00

Good Hope.—Jasigi, Goddard & Co., of Boston, claim for destruction of bark Good Hope, the value of the vessel, outfit, and cargo, and damages for breaking up of voyage, \$110,000.

REVISED AND ADDITIONAL LIST OF CLAIMS FOR PROPERTY DESTROYED BY REBEL CRUISERS.

[Communicated to the House of Representatives, April 3, 1869.]

Message from the President of the United States, relative to the destruction, during the late war, by rebel vessels, of certain merchant vessels of the United States, and concerning the damages and claims arising therefrom.

To the House of Representatives:

In answer to a resolution of the House of Representatives of the 28th of January last, requesting information concerning the destruction, during the late war, by rebel

vessels, of certain merchant vessels of the United States, and concerning the damages and claims resulting therefrom, I transmit a report from the Secretary of State, and the tabular statement which accompanied it.

U. S. GRANT.

WASHINGTON, April 3, 1869.

DEPARTMENT OF STATE,
Washington, April 3, 1869.

The Secretary of State, to whom was referred the resolution of the House of Representatives, of which the following is a copy:

"CONGRESS OF THE UNITED STATES—IN THE HOUSE OF REPRESENTATIVES.

"On motion of Mr. Starkweather,

"Resolved, That the Secretary of State, if not incompatible with the public interest, communicate to this house such information as may be in possession of said department relating to the destruction, during the late war, by rebel vessels, of such American vessels as were engaged in trade or commerce; giving the names, character, ownership, and value of vessels and cargoes destroyed or taken; also a statement of damages claimed by the owners of said vessels respectively, and the time and place of capture or destruction, and by what vessels.

"Attest:

"EDW. MCPHERSON, Clerk."

Has the honor to submit herewith, in compliance with said resolution, the accompanying tabulated list of vessels captured or destroyed "during the late war, by rebel vessels."

To guard the interests of all and to prevent any improper use of the list, to the prejudice of this government or of the individual claimants, it is deemed proper to make the following statement as to the nature of the sources from which the information is derived, and the character of the compilation.

This list has been made up from the documents filed, by those whose property has been destroyed, in support of their claims for indemnity. Where the records of this department are incomplete, reference has been made to such other unofficial records and materials as were deemed reliable and trustworthy, in order to render the statement as complete as possible, and to exhibit, so far as is within the power of this department, in a connected and tabular form, the amount and character of the injury inflicted, and the variety and extent of the interests involved.

While this list is deemed to be reasonably complete and accurate, it is not at all unlikely that, from the nature of the records and of the work, errors may have crept in and omissions have been made.

It has been the design, where practicable, to reduce the amounts of the claims of the owners of property destroyed by the amounts of insurance paid them by underwriters, who have also filed claims for the destruction of the same property. This rule has been almost invariably followed. In many cases, the claimants have, in their memorials, done this, or have given *data* from which the amount to be deducted could readily be ascertained.

It has been found impracticable to give, in all cases, the aggregate value of the property destroyed with and on the several vessels. In some cases, indicated by an asterisk, the estimate of the captors is given. In others the claimants have given sufficient *data* from which this value may be estimated or ascertained. But, generally, the nature of the claims preferred by so many different claimants, often in such various capacities, is such that, with the probability that in respect to many of the vessels there are claims not yet presented, it has not been thought advisable to give such value or estimates.

It will be observed that with respect to vessels other than those with which the names of claimants appear, no claims have been filed with this department, and the facts in regard to them have been derived from other than official sources.

These sources are compilations made by the board of underwriters, accounts of the cruises of the different vessels, and such other lists or documents as have been deemed reasonably reliable to supply the defect in the official records.

Respectfully submitted.

HAMILTON FISH.

The PRESIDENT.

List of American vessels captured and destroyed by rebel vessels during the late war.

1. BY THE ALABAMA, (a vessel fitted

Name of vessel.	Character.	Name of master.	Names of owners.
Alert.....	Ship	Edwin Church.....	Moses H. Grinnell and Robert P. Minturn, of N. Y.; Richard H. Chappell, Henry P. Havens, Francis Allyne, Robt. Coit, Robt. H. Glass, Tho. P. Williams, John Clark, and Edwin Church, of New London, Conn.; Mrs. Harriet P. Williams, Norwich, Conn.; Edward Church and James S. Rogers, of Montevideo.
Altamaha	Brig	Rufus Gray	Stephen C. Luce, John Pitcher, Samuel W. Luce, Jas. S. Luce, James Luce, Henry M. Allen, Henry F. Hatch, Russell Gray, Benjamin B. Handy, and Frederic Burden, of Marion; and Wm. Hathaway and Judah Hathaway, of Rochester; all of Mass.
Amanda.....	Bark	Isalah Larabee	Thos. J. Stewart, Timothy Crosby, John H. Crosby, Benj. S. Crosby, George Crosby, Anna L. Crosby, Joseph S. Wheelwright, and John B. Foster, of Bangor, Me.; and Sarah H. Pendleton, administratrix, &c., of Seaport, Me.
Amazonian	Bark	Winslow Loveland...	Elisha H. Rider, of Chelsea; David E. Mayo, Abel Gove, Winslow Loveland, Rosina Clark, administratrix, &c., Maurice M. Pigott, Hiram Baker, and Henry A. Baker, of Boston; John F. Cuenent, of West Lyan; James Merrill, Solomon Littlefield, Hiram Littlefield, Atkinson Stanwood, Jonathan Keniston, and Geo. B. Merrill, of Newburyport; Christopher Smith, Ephraim Smith, and Sylvester K. Small, of Chatham, Mass.; Zenas D. Bassett, Elisha Bacon, and Wm. Russell, of New York.
Anna F. Schmidt	Ship	Henry B. Trumbly ..	Charles Williams, of Framingham; Geo. W. Campbell, of Bradford; Moses J. Milliken, of Newburyport, Mass.; Geo. Wise, Robert Smith, Jr., of Kennebunk; and Moses M. Butler, of Portland, Me.
Ariel, (bonded).....	Steamer...	Albert G. Jones.....	

Compiled in answer to the resolution of the House of Representatives of January 28, 1869.

out in England as a rebel cruiser.)

Names of claimants.	Property destroyed.	Value.	When destroyed.	Am't of claim.
Moses H. Grinnell and Robert Minturn ..	Vessel and outfit.....	\$52,000 00	Sept. 9, 1862	\$6,500 00
Remaining owners	Vessel and damages.....			38,058 90
Atlantic Mut. Ins. Co. of New York	Vessel and outfits.....			13,300 00
Owners	Brig, outfits, &c.....	6,000 00	Sept. 13, 1862	13,670 00
Rufus Gray, Judah Hathaway, and Jas. Blankenship, of Marion, on shares.	Outfits and prospective catch.			18,270 00
Owners	Vessel and freight.....	104,442 00	Nov. 6, 1863	68,000 00
Isaiah Larabee, master	Primage & pers. prop.			2,039 37
H. Emory Swain, Frankford, Me., 1st mate	Clothing, &c.....			690 00
Merch'ts' Mut. Marine In. Co., Bangor, Me.	Insurers			2,500 00
Owners	Bark and charter	97,655 00	June 2, 1863	43,000 00
Master	Instmta. and cloth'g.			260 00
David Mayo, former master	Instmta., stores, &c			1,566 00
Union Mut. Ins. Co. of New York	Vessel			2,719 00
New York Mut. Ins. Co.	Cargo			250 00
Commercial Mut. Ins. Co. of New York ..	do			3,385 00
Same Co. with New York Mut. Ins. Co. and Union Mut. Ins. Co. of New York ..	do			8,156 00
Columbian Ins. Co. of New York	Vessel and cargo			35,550 00
Sun Mut. Ins. Co. of New York	Cargo			5,725 00
Mercantile Mut. Ins. Co. of New York ..	do			10,075 00
Atlantic Mut. Ins. Co. of New York	do			21,971 00
Pacific Mut. Ins. Co. of New York	do			3,385 00
Great Western Ins. Co. of New York	do			3,780 00
Owners	Dif. val. and insurance	350,000 00	July 2, 1863	8,040 00
Pio Bisagno, Bartolomeo Bisagno, and Luigi Bisagno, of San Francisco.	Cargo			2,094 30
Moses Ellis and Philip S. Weaver, of San Francisco.	do			11,535 92
Levi Stevens, Colin Clark Baker, and Judah Baker, of San Francisco.	Loss of commissions..			3,244 42
Dimon Hubbard, Malden, Mass	Cargo			1,905 36
Charles W. Bond, New York	do			670 00
Lewis Hecht, of Boston, and Jacob and Isaac Hecht, of San Francisco.	do			391 00
Edmund Jackson and William J. Stevens, of Boston.	Merchandise			834 50
Ezra F. Wood and S. A. Wood, Roxbury, Mass.	do			618 62
Bartlett Doe and John S. Doe, of Boston.	do			6,408 06
Henry F. Higginson, surviving partner of firm of J. W. Jarvis & Co., of Boston.	do			1,549 39
Conroy & O'Connor, of San Francisco.	do			429 16
Charles G. Hooker, (Hooker & Co.,) San Francisco.	do			1,637 78
Z. Einstein & Co., of Boston	do			1,455 40
Jas. C. Ayer & Co., of Lowell, Mass	do			2,783 60
W. K. Lewis & Bros., of Boston	do			301 57
W. E. Coffin & Co., of Boston	do			1,356 25
Wilson & Bro., of San Francisco	do			1,844 27
Geo. Pomeroy Plalsted, of San Francisco.	Household, goods, &c.			1,009 95
Baker & Hamilton, of Sacramento	Merchandise			2,974 63
Sun Mut. Ins. Co. of New York	On merchandise			2,050 00
Washington Ins. Co. of Boston	Ship and cargo			11,560 00
New England Mut. Marine Ins. Co., Boston	do			21,665 00
Metropolitan Ins. Co. of New York	On merchandise			9,000 00
Manufacturers' Ins. Co. of Boston	Charter and merchandise			20,500 00
Atlantic Ins. Co. of New York	Merchandise			11,903 00
Washington Marine Ins. Co. of New York	do			183 00
Great Western Ins. Co. of New York	Cargo			18,156 00
California Ins. Co. of San Francisco	Merchandise			4,374 49
Shoe & Leather Dealers' Fire and Marine Ins. Co. of Boston.	do			5,450 00
Merchants' Ins. Co. of Boston	do			1,000 00
Boston Ins. Co. of Boston	do			18,400 00
China Mut. Ins. Co. of Boston	Vessel and cargo			21,000 00
Union Mut. Marine Ins. Co. of Boston	Merchandise			900 00
Columbian Ins. Co. of New York	Freight and cargo.....			17,764 55
Edwin L. Lane, of Leon, Nicaragua	Specie	261,000 00	Dec. 7, 1862	1,500 00
Columbian Ins. Co. of New York	U. S. Treasury notes			8,500 00

List of American vessels captured

1. BY THE ALABAMA—Continued.

Name of vessel.	Character.	Name of master.	Names of owners.
Baron de Custine, (bond- ed.)	Brig	O. W. Haskell .....	.....
Benjamin Tucker.....	Ship	William Childs	C. B. Tucker & Co., Seth Booth, of New Bedford; Wm. Cummings, Elizabeth Cummings, executors, &c., Geo. Booth, Charles R. Tucker, of Dartmouth, and Shubal Worth, of Nantucket, all of Mass.
Bethia Thayer, (bonded).	Ship	Pendleton .....	.....
Brilliant.....	Ship	George Hager	Joshua Atkins and Edwin Atkins, of Brooklyn, N. Y., and George Hager, of Boston, Mass.
Charles Hill	Ship	Franklin Percival....	Charles Hill and Charles J. Hill, of Boston; John Carrier, of Newbury, Conn.; and Wm. Lambert, of Portsmouth, N. H.
Chastelaine	Brig	James Warren.....	John S. Emory & Co., Geo. W. Carlisle, and Erasmus O. Emery, of Boston; Leonard Ackerman, of Portsmouth, N. H.; Sylvester Bartlett, of Elliott, Me.; and James Warren, of Brewer, Me.
Clara L. Sparks	Schooner..	(Simply detained)	.....
Conrad.....	Bark	Maloney	John W. Field, of New York.....
Contest.....	Ship	Frederick G. Lucas ..	Abner A. Low, Josiah O. Low, Lucius Hyde, Jr., Ann D. B. Low, Thos. Vernon, Edward A. Low, and Edward H. R. Lyman, of New York; Joseph L. Robert, of Rye, N. Y.; Nathaniel B. Palmer, of Stonington, Conn.; and Wm. H. King, of Newport, R. I.
Courser	Schooner..	Silas J. Youngs.....	Henry Cook, Sylvanus Cook, Jonathan Cook, Alfred Cook, Samuel Cook, Eleazer Cook, Silas J. Youngs, Isaac F. Mayo, George H. Lewis, John D. Mayo, Joseph Mayo, and Thomas Lewis, of Provincetown; John McKenzie, James McKenzie, and Leonard McKenzie, of Essex, Mass.
Crenshaw †.....	Schooner..	William Nelson.....	David B. Turner, of New York
Doreas Prince	Ship	Frank B. Melcher.....	George Griswold, of New York.....
Dunkirk	Brig	Samuel B. Johnson ..	Edward J. Peters, and Charles Peters, of New York; and Austin F. Drinkwater, of Ellsworth, Me.
Ellisa Dunbar.....	Bark	David R. Gifford	William Watkins, Edward O. Jones, Caleb Anthony, Geo. A. Dunbar, Ann H. Dunbar, and George A. Watkins, of New Bedford; and Benjamin Ellis, of Fairhaven, Mass.
Emily Farnum, (released)	Ship	Nathan R. Simes.....	.....
Emma Jane	Ship	Francis C. Jordan.....	David C. Magoun, Charles Clapp, Jr., and Samuel Swanton, of Bath, Me.; Chas. C. Duncan, John E. Donnell, and James D. Robinson, of New York.
Express	Ship	William S. Frost.....	Supply O. Thwing, of Boston; Wm. S. Frost, Daniel Marcy, Richard Jenness, Washington Williams, Fred. W. Fernald, and William Pettigrew, of Portsmouth, N. H.
Golden Eagle.....	Ship	Edward A. Swift.....	Edward Mott Robinson, of Boston; Robert F. Gardner, of Nantucket; Jno. A. McGaw, of New York; and Denning Jarvis, of Boston.

† Since the preparation of these lists the owner of the schooner Crenshaw, destroyed by

and destroyed, &c.—Continued.

Names of claimants.	Property destroyed.	Value.	When destroyed.	Am't of claim.
.....	.....	\$6,000 00	Oct. 29, 1862	.....
Owners	Vessel, outfits, and prospective catch.	70,200 00	Sept. 14, 1862	\$165,000 00
Commercial Mut. Marine Ins. Co. of New Bedford.	Vessel, &c.	.....	.....	6,000 00
Pacific Mut. Marine Ins. Co.	do .....	.....	.....	1,000 00
Owners	Ship, &c.	40,000 00	Mar. 1, 1863	.....
B. E. Clark & Co. of New York	Merchandise.	164,000 00	Oct. 3, 1862	75,000 00
Atlantic Mut. Ins. Co. of New York	On freight.	.....	.....	3,211 80
New York Mut. Ins. Co. ....	.....	.....	.....	18,000 00
Master	Personal effects, &c.	.....	.....	9,245 00
Owners	Vessel and cargo.	*28,450 00	Mar. 25, 1863	1,250 00
Master	Personal property	.....	.....	43,735 33
Manufacturers' Insurance Co. of Boston..	Vessel, &c.	*10,000 00	Jan. 27, 1863	1,548 60
.....	.....	.....	.....	11,670 55
Atlantic Mut. Ins. Co. of New York	Vessel and cargo.	.....	Nov. 21, 1862	.....
R. W. Ropes & Co., of New York	Cargo .....	.....	June 19, 1863	16,570 00
Sun Mut. Ins. Co. of New York	do .....	.....	.....	16,797 36
Columbian Ins. Co. of New York	do .....	.....	.....	20,000 00
Owners	Ship, freight, & cargo.	*122,815 00	Nov. 11, 1863	17,205 00
Atlantic Mut. Ins. Co. of New York	Ship .....	.....	.....	108,528 38
Frederick Geo. Lucas, master	Pers'l prop. and mdse.	.....	.....	18,500 00
Oliver Bryan, of New York	Merchandise	.....	.....	4,638 00
James H. Cromwell.....	Personal property	.....	.....	180 59
.....	.....	.....	.....	1,025 00
Owners	Schooner and outfits.	*7,000 00	Sept. 16, 1862	12,462 47
Peter Rice & Co., of New York	Grain bags	*33,869 00	Oct. 26, 1862	630 80
Columbian Ins. Co. of New York	Ship and freight	*44,108 00	Apr. 26, 1863	10,000 00
China Mut. Ins. Co. of Boston	Vessel .....	.....	.....	11,000 00
Atlantic Mut. Ins. Co. of New York	Cargo .....	.....	.....	13,025 00
Franklin Ins. Co. of Boston	Merchandise .....	.....	.....	750 00
New England Mut. Ins. Co.	Ship and freight .....	.....	.....	10,500 00
Master	Mdse. and pers'l prop.	.....	.....	3,638 60
E. J. Peters & Co., of New York	15-16 brig and freight.	*25,000 00	Oct. 7, 1862	7,650 00
Master	Goods and freight.	.....	.....	1,514 64
Isaac Sherman and Henry C. Wybert, of New York.	Merchandise .....	.....	.....	607 60
Atlantic Mut. Ins. Co. of New York	do .....	.....	.....	10,200 00
Groat Western Ins. Co. of New York	Vessel .....	.....	.....	8,000 00
Sun Mut. Ins. Co. of New York	Freight .....	.....	.....	2,350 00
Owners	Bark, &c., and prospective catch.	*27,000 00	Sept. 18, 1862	.....
Union Mut. Marine Ins. Co. of N. Bedford..	Vessel, &c.	.....	.....	8,500 00
Mut. Marine Ins. Co. of New Bedford	do .....	.....	.....	12,875 00
Owners	Vessel and charter.	*40,000 00	Oct. 3, 1862	.....
Columbian Ins. Co. of New York	.....	.....	Jan. 14, 1864	50,000 00
.....	.....	.....	.....	29,000 09
Supply C. Thwing, of Boston	Vessel and freight.	*121,300 00	July 6, 1863	13,522 50
Daniel Marcy, of Portsmouth, N. H.	do .....	.....	.....	4,761 25
Mary E. Pettigrew, administratrix, &c., of Portsmouth.	do .....	.....	.....	4,761 25
Lyman B. Jewell, trustee, &c., of Boston.	do .....	.....	.....	4,761 25
James Crawford, first officer, of Brighton, Mass.	Person'l prop'ry, &c.	.....	.....	980 00
Ellen P. Fernal, administratrix, &c., of Portsmouth.	Vessel and freight.	.....	.....	5,766 25
Wm. S. Frost, master, of Portsmouth.	Vessel, &c.	.....	.....	12,561 25
Washington Ins. Co. of Boston	Vessel and freight.	.....	.....	12,000 00
China Mut. Ins. Co. of Boston	Vessel, &c.	.....	.....	9,000 00
Owners	Ship and freight	*61,000 00	Feb. 21, 1863	86,000 00
Master	Personal property	.....	.....	1,165 00
United States Guano Co. of New York.	Guano .....	.....	.....	27,522 50

the Alabama, has filed a claim for \$26,790 71 for the value of his vessel.

List of American vessels captured

1. BY THE ALABAMA—Continued.

Name of vessel.	Character.	Name of master.	Names of owners.
Golden Rule.....	Bark.....	Peter A. Whitebury..	Panama Railroad Company and David H. Hoadley.
Harriet Spalding.....	Bark.....	Peabody .....	.....
Hatteras	Gunboat ..	Lieut. R. G. Blake.....	Government of the United States.....
Highlander	Ship	J. H. Snow	Jabez Snow, Jabez S. Stubbs, Franklin Spofford, Henry Darling, Enoch Barnard, and Theodore C. Woodward, of Bucksport, Me.; Joseph P. Ellicott, George H. Peters, William C. Peters, and Henry H. Peters, of Boston.
Jabez Snow	Ship	Geo. W. Guin	Jabez Snow, Franklin Spofford, Henry Darling, Enoch Barnard, and Joseph A. Folsom, of Bucksport, Me.; Geo. H. Peters, Wm. C. Peters, and Joseph P. Ellicott, of Boston; and Henry D. Brookman and John W. Brookman, of New York.
John A. Parks	Ship	James S. Cooper	Henry Cooper, Jr., Eldridge F. Rollins, Alex. H. Howard, James S. Cooper, and Matilda R. Page, of Hallowell, Maine; and Joshua Baker and John W. Baker, of Boston.
Justina.....	Bark.....	James T. Forrest.....	John M. Bandel, of Baltimore
Kate Cory.....	Brig	Stephen Flanders.....	Alex. H. Cory, John White, Joshua Potter, of Westport; Charles T. Bonney, Sarah H. Allen, Wm. E. Mason, James P. and Thos. W. Macomber, administrators, &c., of New Bedford; Benjamin C. Smith and Stephen Flanders, of Chilmark; Solomon White, Jr., of Middleboro'; Abner Potter, Jr., of Dartmouth; John Kehon, of Boston, all of Massachusetts; and Perry Gifford, of Rensselaerville, N. Y.
Kingfisher.....	Schooner..	Thos. F. Lambert.....	Chas. H. Tripp, Thomas F. Lambert, Simpson Jenney, Albert Jenney, and James I. Church, of Fairhaven, Mass.; Jas. H. Stearns, of Dartmouth; and Gilbert Hathaway, of New Baltimore, Mich.
Lafayette, (1).....	Ship	Alfred T. Small.....	Clement H. Soule, Enos Soule, Francis B. Soule, deceased, and Alfred T. Small, of Freeport, Maine; and Hinchman S. Soule, deceased, of New Haven, Conn.
Lafayette, (2).....	Bark.....	William Lewis.....	J. H. Bartlett & Sons, Wm. Lewis, Charles E. Allen, Benj. B. Howard, and others, of New Bedford.

and destroyed, &c.—Continued.

Names of claimants.	Property destroyed.	Value.	When destroyed.	Am't of claim.
Owners	Vessel, freight, & mdse	*\$112,000 00	Jan. 26, 1863	\$17,406 00
Master, of New York	Personal property	.....	.....	850 00
John Cassidy, mate	do	.....	.....	200 00
Charles W. Bond, of New York	Merchandise	.....	.....	3,353 66
Solomon and Alexander Rich, of New York, &c.	do	.....	.....	4,324 95
Tay, Brooks & Backus, of San Francisco	do	.....	.....	2,146 10
Jones & Hewlett, of New York	do	.....	.....	310 50
Hooker & Co., of San Francisco	do	.....	.....	1,616 85
A. D. Moore & Co., of Lima, Peru	do	.....	.....	5,000 00
Pacific Mail Steamship Company	do	.....	.....	6,237 78
Gregorio Dominguez, of New York	do	.....	.....	544 35
Main & Winchester, of San Francisco	do	.....	.....	4,134 57
Helvener, Doehendorf & Co., of Lima, Peru	do	.....	.....	2,680 01
Commercial Mut. Ins. Co. of New York	do	.....	.....	728 00
Commercial Mut. Ins. Co., New York Mut. Ins. Co., and Union Mut. Ins. Co. of New York	do	.....	.....	2,000 00
Sun Mut. Ins. Co. of New York	do	.....	.....	700 00
Columbian Ins. Co. of New York	do	.....	.....	9,826 00
Pacific Mut. Ins. Co. of New York	do	.....	.....	800 00
Union Mut. Ins. Co. of New York	Vessel	.....	.....	667 00
New York Mutual Insurance Company	Merchandise	.....	.....	1,067 00
Great Western Ins. Co. of New York	do	.....	.....	2,950 00
Mercantile Mut. Ins. Co. of New York	do	.....	Nov. 18, 1863	1,740 00
.....	.....	*\$160,000 00	Jan. 11, 1863	.....
Owners	Vessel and cargo	*\$75,965 00	Dec. 26, 1863	110,402 00
Columbian Ins. Co. of New York	Ship and freight	.....	.....	21,000 00
Metropolitan Ins. Co. of New York	Ship	.....	.....	15,000 00
Owners	Ship and cargo	*\$2,881 00	May 29, 1863	133,408 00
Master, of Bucksport, Me.	Per's'l property, &c	.....	.....	6,600 00
Owners	Vessel and charter	70,000 00	Mar. 2, 1863	66,306 00
John J. Sprague, chief mate, New York	Personal property	.....	.....	897 00
Sun Mutual Insurance Co. of New York	Ship and merchandise	.....	.....	7,761 00
Columbian Mutual Ins. Co. of New York	Ship, &c	.....	.....	14,938 00
Washington Insurance Co. of Boston	Ship	.....	.....	10,500 00
Washington Marine Ins. Co. of N. York	Vessel and freight	.....	.....	800 00
Neptune Insurance Co. of New York	Freight	.....	.....	6,000 00
Great Western Ins. Co. of New York	do	.....	.....	15,000 00
China Mutual Insurance Co. of Boston	Vessel	.....	.....	4,000 00
Owner .....	.....	*\$7,000 00	May 25, 1863	7,000 00
Owners	Vessel, &c., and prospective catch.	26,268 25	Apr. 15, 1863	40,162 00
Commercial Mutual Marine Insurance Company of New Bedford	Vessel, &c.	.....	.....	3,450 00
Mutual Marine Ins. Co. of New Bedford	do	.....	.....	3,950 00
Union Mut. Marine Ins. Co. of N. Bedford	do	.....	.....	812 00
Owners	do	*\$24,000 00	Mar. 23, 1863	26,928 00
Pacific Mut. Marine Ins. Co. of N. Bedford	do	.....	.....	21,000 00
Mutual Marine Ins. Co. of New Bedford	Catchings	.....	.....	324 17
Owners	Ship and freight	*\$110,337 00	.....	98,978 68
Master	Personal property	.....	.....	513 25
B. E. Clark & Co., of New York	Grain bags	.....	Oct 23, 1862	4,496 70
Owners	Vessel, &c., with prospective catch.	36,025 50	.....	50,369 00
Master	Personal property	.....	.....	1,050 00
Geo. F. Bartlett, of New Bedford	Merchandise	.....	.....	500 00
Manufacturers' Insurance Co. of Boston	Oil	.....	.....	4,000 00
Mutual Marine Ins. Co. of New Bedford	Vessel, &c	.....	.....	8,125 00
Pacific Mut. Marine Ins. Co. of N. Bedford	do	.....	.....	5,400 00

List of American vessels captured

1. BY THE ALABAMA—Continued.

Name of vessel.	Character.	Name of master.	Names of owners.
Lamplighter.....	Bark.....	Orin D. Harding.....	Gustavus A. Godbold, Patrick Kidney, Alex. K. Bryer, John L. Badger, Nath. Bailey, Howland, Hinchley & Co., Nath. Delano, Henry Pigeon, Joseph Sargeant, and Barker B. Kent, of Boston; Ellsha Hayden and Wm. M. Cudworth, of Medford; John Sayns, Samuel Eldridge, Joseph Harding, Myruk N. Kent, Christopher Taylor, Florence Ryder, Joshua Y. Beare, Elijah M. Carpenter, James Beare, Clement Kendrick, and Jonathan Eldridge, of Chatham, Mass.; John M. Caldwell and Wm. A. Caldwell, of Charleston, S. C.; and John J. Kelley, of Savannah, Ga.
Lauretta.....	Bark.....	M. M. Wells.....	Samuel C. Bailey and Marshall M. Wells, of Bristol, Maine; Samuel Lane, Jos. Teague, Harriet B. Little, administratrix, &c., and Joel Huston, of Damariscotta, Maine; and William Ropes, of Boston.
Levi Starbuck.....	Ship.....	Thomas McMellen.....	Edward W. Howland, Thos. S. Hathaway, Caleb Kempton, George Barney, and Cornelius Howland, jr., executors, &c.; Geo. Barney, William A. Gordon, and Wing Russell, of New Bedford.
Louisa Hatch.....	Ship.....	William Grant.....	Wm. McLoon and Charles W. McLoon, of Rockland, Maine.
Manchester.....	.....	Landerkin.....	J. H. Trask, jr., G. D. S. Trask, and Joseph Stewart, of New York.
Martha Wenzell, releas'd.	Bark.....	Sears.....	.....
Martaban.....	Ship.....	Samuel B. Pike.....	Mark Riddell Currie, of Maulmain, a British subject.
Morning Star, (bonded).	Ship.....	Burgess.....	Thomas B. Wales, Nathaniel H. Emmons, Thomas B. Wales, jr., Nathaniel H. Emmons, jr., Geo. W. Wales, and Gardner Brewer, of Boston.
Nina, (bonded).....	Schooner.....	.....	.....
Nora.....	Ship.....	Charles E. Adams.....	George B. Upton and George B. Upton, jr., of Boston.
Nye.....	Bark.....	Joseph B. Baker.....	William Tucker, Charles Tucker, Charles Howland, Charles Faber, Fred. S. Howland, Daniel Baker, Joseph B. Baker, Pardon Wing, J. and W. Wing, Wm. H. Porter, Daniel Macomber, Benj. B. Church, Horace W. Emerson, and others, generally of New Bedford.
Ocean Rover.....	Bark.....	James M. Clark.....	Assignees of Josiah Holmes, jr., & Brother, Abraham Delano, George Barney, Sullings & Kingman, J. & W. R. Wing, and Geo. R. Taber, of New Bedford; Nathan H. Barston, Henry Barston, Martin Hall, Jos. Hudson, Ebenezer Jones, James W. Dexter, James M. Clark, Abner Harlow, Lemuel C. Baron, Wm. Hammond, John F. Atsett, Edward Buell, John Dexter, Gideon Dexter, and Francis Nye, of Mattapoisett, Mass.
Ocmulgee.....	Ship.....	A. Osborn, jr.....	Abraham Osborn, agent and managing owner, Edgartown, Mass.
Olive Jane.....	Bark.....	Robert Kallock.....	Robert Kallock, of Boston; Nathaniel Stevens, of Andover; and Amos H. Hodgman, of Warren, Me.
Palmetto.....	Schooner..	O. H. Leland.....	Eben W. Brazen, Warren King, Eben H. King, Nathan King, Louis King, Stillman King, and William Thompson, of Treaton, Me.; and Eben L. Higgins and Cornelius Thomas, of Eden, Me.
Parker Cook.....	Bark.....	Thomas M. Fulton.....	Edward Habbish.....
Punjab, (bonded).....	Ship.....	— Miller.....	.....
Rockingham.....	Ship.....	Edward A. Gerrish..	Albert L. Jones and Wm. P. Jones, of Portsmouth.

and destroyed, &c.—Continued.

Names of claimants.	Property destroyed.	Value.	When destroyed.	Am't of claim.
Owners	Vessel and freight	\$117,600 00	Oct. 15, 1862	\$60,540 00
John Payne, former master	Personal property .....	.....	.....	1,845 00
Columbian Insurance Co. of New York ..	.....	.....	.....	5,000 00
Neptune Insurance Co. of New York .....	.....	.....	.....	3,000 00
Owners	Bark, &c	\$32,880 00	Oct. 28, 1862	15,000 00
Great Western Ins. Co. of New York	Cargo .....	.....	.....	12,200 00
Owners	Vessel, &c .....	.....	Nov. 2, 1862	203,962 50
Mutual Marine Ins. Co. of New Bedford ..	do .....	.....	.....	18,000 00
Commercial Mutual Marine Insurance Company of New Bedford ..	do .....	.....	.....	3,850 00
Union Mut. Marine Ins. Co. of N. Bedford ..	do .....	.....	.....	3,500 00
Owners	Vessel, freight, &c .....	.....	Apr. 4, 1863	82,250 00
Master	Personal property .....	.....	.....	3,130 00
Columbian Insurance Co. of New York ..	Vessel, &c	164,000 00	Oct. 11, 1862	10,000 00
New York Mutual Ins. Co. of New York ..	do .....	.....	.....	7,500 00
Great Western Ins. Co. of New York	do .....	.....	.....	25,000 00
Neptune Insurance Co. of New York	do .....	.....	.....	5,000 00
Mercantile Mutual Ins. Co. of New York ..	do .....	.....	.....	10,000 00
Hennings & Goelling, of New York	Merchandise .....	.....	.....	6,646 32
Samuel Stevens and John Atkinson, of Boston, and George L. Rogers and Samuel B. Pike, of Newburyport, claim as mortgagees	Vessel, &c	\$97,628 00	Aug. 9, 1863	36,972 00
Dec. 24, 1863 .....	.....	.....	.....	.....
Behn, Meyer & Co., of Singapore, India ..	Merchandise .....	.....	.....	16,335 00
Master	Personal property .....	.....	.....	2,322 25
Owners	Depreciation of value of ship	\$61,750 00	Mar. 23, 1863	5,614 00
Owners	Ship and freight .....	.....	Dec. 5, 1862	80,000 00
Master	Personal property, &c .....	.....	Mar. 25, 1863	3,500 00
New England Mutual Marine Ins. Co.	Vessel, &c	\$31,127 00	Apr. 24, 1863	2,350 00
Union Mut. Marine Ins. Co. of N. Bedford ..	do .....	.....	.....	2,900 00
Commercial Mutual Marine Insurance Company of New Bedford ..	do .....	.....	.....	9,942 00
Mutual Marine Ins. Co. of New Bedford	do .....	.....	.....	6,160 00
Pacific Mut. Marine Ins. Co. of N. Bedford ..	do .....	.....	.....	2,000 00
Owners	Vessel, &c., with prospective catch ..	98,820 00	Sept. 8, 1862	106,625 00
Union Mut. Marine Ins. Co. of N. Bedford ..	Vessel, &c .....	.....	.....	16,605 00
Commercial Mutual Marine Insurance Company of New Bedford ..	do .....	.....	.....	6,500 00
Mutual Marine Ins. Co. of New Bedford	do .....	.....	.....	7,210 00
Owners	Vessel, &c., with prospective catch; also merchandise ..	131,712 00	Sept. 5, 1862	254,072 00
Sun Mutual Insurance Co. of New York ..	Merchandise	\$43,208 00	Feb. 21, 1863	767 66
Columbian Insurance Co. of New York	Cargo, &c .....	.....	.....	2,869 00
Manufacturers' Insurance Co. of Boston ..	Personal property .....	.....	.....	5,000 00
Atlantic Mutual Ins. Co. of New York	Merchandise .....	.....	.....	3,750 00
Denison, Binnes & Co., of New York	do .....	.....	.....	143 02
Columbian Insurance Co. of New York	Freight	\$18,434 00	Feb. 3, 1863	500 00
Manufacturers' Insurance Co. of Boston ..	Vessel, &c	25,399 86	Nov. 30, 1862	25,399 86
Columbian Insurance Co. of New York	do	\$24,000 00	Mar. 15, 1863	.....
Atlantic Mutual Ins. Co. of New York	Vessel, &c .....	.....	Apr. 23, 1864	90,000 00
Columbian Insurance Co. of New York	do .....	.....	.....	15,000 00

List of American vessels captured

1. BY THE ALABAMA—Continued.

Name of vessel.	Character.	Name of master.	Names of owners.
Sea Bride	Bark.....	Charles F. White....	Caleb Eaton, Abriel Gove, Elbridge G. Choate, Charles F. White, and Ellaha Rider, of Boston; Rosina Clark, executrix, &c., of Charlestown; David E. Mayo, of Chelsea; William Currier, Jonathan Kenniston, and James R. Kenniston, of Newburyport; Zenas D. Bassett, Ellaha Bacon, and William S. Russell, of New York.
Sea Lark.....	Ship	W. F. Peck.....	Edward Mott Robinson, of New York; Samuel G. Reed, of Roxbury; and Lyman Grimes, of Brooklyn, N. Y.
S. Gliderleeve.....	Ship	John McCullum	Benj. B. Blydenburg and John H. Brower, of New York; Cleoro Brown, Sylvester Gliderleeve, and Henry Gliderleeve, of Portland, Me.; and Wm. Hendley and Joseph J. Hendley, of Galveston, Texas.
Sonora	Ship	Laurence W. Brown..	William Cushing, John M. Cushing, Nicholas Johnson, Mary A. Johnson, Elizabeth L. B. Mills, Thomas Pritchard, and William Pritchard, of Newburyport, Mass.
Starlight	Schooner..	Samuel H. Doane....	Samuel Whitman, Seth Whitman, Daniel Eaton Lupkin, and Lemuel Whitman, of Deer Isle, Me.
Tallman.....	Ship	D. H. Howard	George Warren, Eben Banker, and Wm. A. Sale, of New York.

and destroyed, &c.—Continued.

Names of claimants.	Property destroyed.	Value.	When destroyed.	Am't of claim.
Owners.....	Vessel, &c.....	.....	Aug. 5, 1863	\$10,200 00
Master.....	Personal prop., &c.....	.....	.....	3,383 00
Rafus Green & Co., of Providence, R. I.	Merchandise, &c.....	.....	.....	22,445 19
Columbian Insurance Co. of New York	Vessel and cargo.....	.....	.....	29,300 00
Mercantile Marine Ins. Co. of Boston	Merchandise.....	.....	.....	10,000 00
Mercantile Mut. Ins. Co. of New York....	Freight.....	.....	.....	15,000 00
Edwin M. Robinson, New York.....	Vessel, &c.....	\$550,000 00	May 3, 1863	37,250 00
Samuel G. Reed, Roxbury, Mass.....	do.....	.....	.....	12,937 50
Lyman Grimes, Brooklyn, N. Y.....	do.....	.....	.....	4,312 50
Ebenezer B. Phillips, of Boston.....	Cargo.....	.....	.....	4,320 00
Locke & Montague, of New York.....	do.....	.....	.....	458 98
Holmes, Goodwin & Co., of New York.....	do.....	.....	.....	3,658 06
Dimon Hubbard, of Malden, Mass.....	do.....	.....	.....	4,707 04
Hostetter & Smith, of Pittsburg, Pa.....	do.....	.....	.....	71 00
Moses Ellis & Co., of San Francisco.....	do.....	.....	.....	11,929 27
Roberts, Morrison & Co., of New York.....	do.....	.....	.....	1,444 00
Van Winkle & Duncan, of New York.....	Merchandise.....	.....	.....	698 34
Daniel L. Perkins, of Oakland, Cal.....	do.....	.....	.....	530 00
J. W. Brittan & Co., of San Francisco.....	do.....	.....	.....	6,517 68
Geo. Osgood & James Burgess Stetson, of San Francisco.....	do.....	.....	.....	1,718 50
Lewis Hecht, of Boston; and Isaac and Jacob Hecht, of San Francisco.....	do.....	.....	.....	1,077 50
Pio Bartolomeo & Luigi Blagno, of San Francisco.....	do.....	.....	.....	735 26
Edward Schultz, of Sacramento.....	do.....	.....	.....	678 84
Fremund & Joel, of San Francisco.....	do.....	.....	.....	1,125 00
Esra F. Wood & Co., of Boston.....	do.....	.....	.....	900 00
Bartlett Doe & Co., of Boston.....	do.....	.....	.....	3,659 98
Tilton & McFarland, of New York.....	do.....	.....	.....	1,326 25
John Hall & Son, of Boston.....	do.....	.....	.....	6,386 11
Conroy & O'Connor, of New York.....	do.....	.....	.....	8,941 83
Chas. G. Hooker, of San Francisco.....	do.....	.....	.....	207 05
Grover & Baker Sewing Machine Co. of New York.....	do.....	.....	.....	1,400 00
Z. Einstein & Bros., of Boston.....	do.....	.....	.....	618 00
W. E. Coffin & Co., of Boston.....	do.....	.....	.....	615 00
Wilson & Bro., of San Francisco.....	do.....	.....	.....	1,344 26
Mercantile Marine Ins. Co., of Boston.....	Vessel, &c.....	.....	.....	5,000 00
Columbian Ins. Co. of New York.....	Ship and cargo.....	.....	.....	20,208 34
Metropolitan Ins. Co. of New York.....	Cargo.....	.....	.....	2,000 00
Sun Mutual Ins. Co. of New York.....	Merchandise.....	.....	.....	450 00
Washington Ins. Co. of Boston.....	Cargo.....	.....	.....	14,975 00
Atlantic Mutual Ins. Co. of New York.....	do.....	.....	.....	36,968 00
New England Mutual Ins. Co. of Boston.....	Merchandise.....	.....	.....	12,174 00
Manufacturers' Ins. Co. of Boston.....	Cargo, &c.....	.....	.....	20,630 00
Pacific Mutual Marine Ins. Co. of New Bedford.....	Cargo.....	.....	.....	1,900 00
Shoe & Leather Dealers' Fire and Marine Ins. Co. of Boston.....	do.....	.....	.....	5,450 00
California Ins. Co. of San Francisco.....	do.....	.....	.....	1,409 55
Merchants' Ins. Co. of Boston.....	do.....	.....	.....	2,930 00
Mercantile Mutual Ins. Co. of New York.....	Merchandise.....	.....	.....	750 20
Commercial Mutual Ins. Co. of New York.....	Vessel, &c.....	\$2,783 00	May 25, 1863	7,500 00
Sun Mutual Ins. Co. of New York.....	do.....	.....	.....	10,000 00
Union Mutual Ins. Co. of New Bedford.....	do.....	.....	.....	5,000 00
Great Western Ins. Co. of New York.....	do.....	.....	.....	5,000 00
Mercantile Marine Ins. Co. of New York.....	do.....	.....	.....	7,500 00
Owners.....	Vessel and charter.....	\$46,545 00	Dec. 26, 1863	59,044 44
Columbian Ins. Co. of New York.....	Vessel, &c.....	.....	.....	30,500 00
Owners.....	do.....	\$4,000 00	Sept. 7, 1862	3,500 00
Chalmer S. Dawes, charterer.....	Provisions.....	.....	.....	725 00
Master.....	Personal property.....	.....	.....	330 00
Wm. Williams.....	Chronometer.....	.....	.....	250 00
Pacific Mutual Insurance Co.....	Cargo.....	\$139,135 00	June 5, 1863	5,269 00
New York Mutual Ins. Co. of New York.....	Ship, &c.....	.....	.....	25,094 00
Columbian Ins. Co. of New York.....	Cargo, &c.....	.....	.....	18,498 00
Washington Ins. Co. of Boston.....	do.....	.....	.....	10,000 00
Atlantic Mutual Ins. Co. of New York.....	Vessel and cargo.....	.....	.....	67,680 00
Neptune Ins. Co. of New York.....	Vessel.....	.....	.....	5,000 00
Great Western Ins. Co. of New York.....	Vessel and cargo.....	.....	.....	25,045 00
China Mutual Ins. Co. of Boston.....	Merchandise.....	.....	.....	3,500 00
Mercantile Mutual Ins. Co. of New York.....	Vessel.....	.....	.....	5,000 00
Tilton & McFarland, of New York.....	Merchandise.....	.....	.....	670 00
Antoine Daniel, of Phillipsburg, Me.....	Personal property, &c.....	.....	.....	1,455 00
Mrs. J. H. Thayer, of Williamsburg, N. Y.....	do.....	.....	.....	1,000 00

List of American vessels captured

I. BY THE ALABAMA—Continued.

Name of vessel.	Character.	Name of master.	Names of owners.
Texan Star, (see Martaban.) Thomas B. Wales.....	Ship	Edgar Lincoln.....	Thomas B. Wales, George W. Wales, and Nathaniel W. Emmons, of Boston, Massachusetts.
Tonawanda, (bonded) .. Tycoon.....	Ship	Theodore Julius	Thos. P. & Francis R. Cope
	Bark.....	Edward Ayers.....	Thomas J. Stewart, Timothy Crosby, John H. Crosby, Benjamin S. Crosby, George Crosby, Anna L. Crosby, Joseph S. Wheelwright, and John B. Foster, of Bangor, Maine; and Sarah H. Pondleton, administratrix, &c.
Union, (bonded)	Schooner..	—— Young.....	
Union Jack.....	Bark.....	Charles P. Weaver ..	Charles P. Weaver, of Braintree; Benjamin F. Delano, Frederick Chandler, Charles A. Cousins, Ellaha H. Ryder, Maurice M. Pigott, Albert B. Low, William H. Haskins, Henry Pigeon, Otis C. Howe, John Howe, Jr., Samuel Averill, Edward Johnson, and Louisa Wilde, of Boston; and John Atkinson.
Virginia	Ship	Shadrach R. Tilton ..	William Hathaway, Jr., Joseph Wing, William R. Wing, Mary C. Luce, and the executors of Matthew Luce, deceased, of New Bedford; Richard C. Nichols, of Boston; Richard G. Luce, Lorenzo Smith, and Benjamin C. Cromwell, of Tilbury; S. W. Carey, administrator, &c., Henry Barling, and Abram H. Davis, of New York; and Edward D. Mandell, of New Bedford, administrator, &c.

and destroyed, &c.—Continued.

Names of claimants.	Property destroyed.	Value.	When destroyed.	Am't of claim.
Owners	Ship, &c	\$245,625 00	Nov. 8, 1862	\$39,811 00
Atlantic Mutual Ins. Co. of New York	Ship and cargo			130,264 00
Sun Mutual Insurance Co. of New York	Cargo			5,000 00
China Mutual Insurance Co. of Boston	do			9,200 00
Alliance Mutual Insurance Co. of Boston	Vessel, &c			5,000 00
Great Western Ins. Co. of New York	Cargo			4,854 00
J. S. Farlow & Co., of Boston	Merchandise			911 40
George H. Fairfield	Personal property			4,400 00
Master	do			1,950 00
Joshua B. Atkins, of Provincetown, Mass.	Personal property, &c			1,450 00
Owners		80,000 00	Oct. 8, 1862	
De Witt Little & Co., of New York	Ship, freight, &c		Apr. 27, 1864	86,559 78
Edwin Denning, of Hartford, Connecticut.	Goods and commissions			11,049 43
Locke & Montague, of New York	Merchandise			1,170 50
George J. Brooks, of New York	do			2,637 95
Charles Mann and Ezra H. Winchester, of San Francisco	do			1,598 67
John Taylor, of San Francisco	do			5,578 28
Joseph and Leopold Pollack, of New York and San Francisco	do			1,658 00
Abraham S. Rosenbaum and Joseph Brandenstein, of New York; and Moses Rosenbaum, of San Francisco	do			655 75
Coffin, Redington & Co., of New York	do			4,978 25
Hostetter & Smith, of Pittsburg, Pa.	do			
W. F. Brittan & Co.	do			3,166 42
Henry Simon & Son, of New York	Wines			3,934 43
Edward Ayres, master, Wilmington, Del.	Personal property			5,325 74
John G. Parker & Son, New York and San Francisco	Merchandise			2,001 75
John Gordon, of San Francisco				1,471 00
A. Rich & Bro., of New York; S. Rich & Bro., of San Francisco				5,000 00
John Chadwick, of New York	do			3,248 92
W. B. Westworth & Co., of Randolph, Mass.	do			15,039 00
L. B. Benchly & Co., of San Francisco	do			
Tilton & McFarland, of New York	do			2,416 62
Tay, Brooks & Backus, of San Francisco	do			2,157 30
Conroy & O'Connor, of New York	do			5,145 70
George W. Baker, of New York	do			437 50
Norman Porter, of San José, California	do			3,850 56
Charles G. Hooker, of San Francisco	do			1,067 30
Rockwell, Coys & Co., of San Francisco	do			2,050 00
Steinhart Bros., of New York	do			2,524 76
Atlantic Mutual Ins. Co. of New York	Cargo			1,841 75
Columbian Insurance Co. of New York	do			2,865 90
Pacific Mutual Ins. Co. of New Bedford	do			2,917 25
Union Mutual Ins. Co. of New Bedford	do			121,896 00
Main & Winchester	Merchandise			19,835 00
Washington Marine Ins. Co. of Boston	Cargo			15,121 00
Great Western Ins. Co. of New York	do			653 00
Mercantile Mutual Ins. Co. of New York	do			5,078 28
Metropolitan Insurance Co. of New York	do			100 00
Solomon L. Jacobs, of New York	do			28,612 00
Owners	Merchandise			90 00
Master	Ship, &c	\$1,500 00	Dec. 5, 1862	200 00
Charles D. Lewis, of New York	Personal property, &c	77,000 00	May 3, 1863	7,099 50
Franklin Knight, of New York	Merchandise			41,000 00
Byron Binnings, of New York	Personal property			2,720 00
Charles H. Plate, of New York	do			857 80
George A. Potter, of New York	Merchandise			10,015 00
Mrs. Irene Birtwhistle, of Brooklyn	do			1,728 83
Sun Mutual Insurance Co. of New York	Cargo			739 48
Pacific Mutual Insurance Co. of New York	do			7,584 33
Atlantic Mutual Ins. Co. of New York	do			1,640 00
China Mutual Insurance Co. of Boston	do			1,400 00
Mercantile Mutual Ins. Co. of New York	do			1,829 00
Owners	Vessel, &c., with prospective catch.	30,074 00	Sept. 17, 1863	35,081 00
Union Mutual Marine Insurance Company of New Bedford	Vessel, &c.			6,850 00
Manufacturers' Insurance Co. of Boston	do			1,190 00
Mutual Marine Insurance Company of New Bedford	do			153,950 00
				800 00
				2,000 00
				10,750 00

List of American vessels captured

1. BY THE ALABAMA—Continued.

Name of vessel.	Character.	Name of master.	Names of owners.
Washington, (bonded)...	Ship	White .....	.....
Wave Crest	Bark	John E. Harmon	John E. Harmon, of Brooklyn; Oliver Pettit, George Schmidt, executor, &c., Emanuel Bloomingdale, Nicholas F. Wilson, Benjamin W. Wilson, Richard M. Nichols, Nathaniel L. McCready, and John W. Mott, of New York; Robert Adger, executor, &c., and William Howland & Co., of Charleston, South Carolina; Charles E. Jayne et al., executors &c., and Louisa P. Pettit, executrix, &c., of Brookhaven, New York; E. A. Mitchell and A. Blackman, of New Haven, Connecticut.
Weather Gage	Schooner ..	Samuel C. Small	Harvey Cook, Sylvanus Cook, Jonathan Cook, Samuel C. Small, Samuel Cook, Charles H. Dyer, Isaac W. Mayo, John D. Mayo, and Joseph Mayo, of Provincetown; Leonard Ware, Ebenezer Arthur, Henry A. Baker, and Hiram Baker, of Boston; John James, and Leonard McKennie, of Essex, Massachusetts.
Winged Racer	Ship	George Cumming	Robert W. Taylor, Henry W. Hubbell, George Ashton, and Edward H. Lillian, of New York.

2. BY THE BOSTON, (a steamer captured by the rebels in June, 1863.)

Lenox	Bark	Beth Cole .....	.....
Texana	Bark	Thomas E. Wolfe .....	.....

3. BY THE CALHOUN, (a steamer fitted out at New Orleans.)

John Adams	Schooner ..	C. B. Areral .....	.....
Mermald	Schooner ..	Soper .....	.....
Panama	Brig	Cook .....	.....

4. BY THE CHICKANAUGA, (a vessel fitted out at Wilmington in October, 1864.)

Albion Lincoln	Bark	Bibber .....	.....
Emma L. Hall	Bark	George W. Coggins ..	E. J. Peters, Charles Peters, and George W. Coggins, of Surry, Maine; Isaac Hall, James Borland, James A. Borland, Thomas H. Armstrong, James W. Griffin, Warren Ray, Chauncey Barnes, and John A. Pease, of New York.
M. L. Potter	Bark	Robert Tapley .....	.....
Shooting Star	Ship	L. H. Drinkwater	Edward M. Robinson, of New York; and Samuel G. Reed, of Roxbury, Massachusetts.

5. BY THE CLARENCE, (a tender of the Florida, fitted out May 6, 1863.)

Alfred H. Partridge, (bonded.)	Schooner ..	.....	.....
Oaleb Cushing	Cutter	Lieut. Davenport .....	.....
Kate Stewart	Schooner ..	W. B. Wood .....	.....
Mary Alvina	Brig	P. K. Frohock	Henry K. Winchester, George B. Talbot, and Thomas Frohock, of Boston.
Mary Schindler	Schooner ..	William Ireland .....	.....
Tacony	Bark	William G. Mundy .....	.....
Whistling Wind	Bark	Butler .....	.....
Conrad, (see Tuscaloosa.) ..	.....	.....	.....

6. BY THE ECHO.

Mary E. Thompson	Brig	Havener .....	.....
Mary Goodell	Schooner ..	McGilveray .....	.....

7. BY THE FLORIDA, (a steamer fitted out in England; seized at Nassau; being released, she ran to

Aldebaran	Schooner ..	Robert W. Hand	Nehemiah Hand and Robert W. Hand, of S-tauket, N. Y.
Anglo-Saxon	Ship	John M. Cavarly	Edward M. Robinson and David Nevins, of Boston.
Arabella	Brig	J. W. Lindsay .....	.....

and destroyed, &c.—Continued.

Names of claimants.	Property destroyed.	Value.	When destroyed.	Am't of claim
Owners.....	Vessel, &c.....	\$50,000 00	Feb. 27, 1863	.....
John H. Howell, of New York.....	Personal property.....	44,000 00	Oct. 7, 1862	\$34,922 06
Peter Rice & Co., of New York.....	Merchandise.....	.....	.....	250 00
Great Western Ins. Co. of New York.....	Cargo.....	.....	.....	1,095 00
.....	.....	.....	.....	22,800 00
Owners.....	.....	10,000 00	Sept. 9, 1862	10,220 5
Owners.....	Vessel and cargo.....	150,000 00	Nov. 10, 1863	315,939 81
Mercantile Mutual Ins. Co. of New York.....	Personal property.....	.....	.....	1,000 00
Columbian Ins. Co. of New York.....	Cargo.....	.....	.....	5,000 00
Union Mutual Ins. Co. of New York.....	Cargo.....	.....	June 12, 1863	.....
.....	.....	.....	June 12, 1863	40 00
.....	.....	.....	May, 1861	.....
.....	.....	.....	May, 1861	.....
.....	.....	.....	May 29, 1861	.....
Union Mutual Ins. Co. of New York.....	Cargo.....	.....	Oct. 29, 1864	.....
Columbian Ins. Co. of New York.....	Vessel and cargo.....	.....	Oct. 31, 1864	22,963 00
.....	.....	.....	.....	12,800 00
Columbian Insurance Co. of New York.....	Merchandise.....	.....	Oct. 30, 1864	2,000 00
Columbian Insurance Co. of New York.....	Vessel, &c.....	.....	Oct. 31, 1864	45,500 00
Washington Marine Ins. Co. of Boston.....	Freight.....	.....	.....	10,000 00
Pacific Mail Steamship Company.....	Cargo.....	.....	.....	14,483 85
.....	.....	.....	June 7, 1863	.....
.....	.....	.....	June 24, 1863	.....
.....	.....	.....	June 12, 1863	.....
Owners.....	Vessel, &c.....	\$11,304 00	June 9, 1863	14,218 00
Master.....	Personal property.....	.....	.....	304 00
.....	.....	.....	June 12, 1863	.....
.....	.....	.....	June 12, 1863	.....
.....	.....	.....	June 6, 1863	.....
.....	.....	.....	July 9, 1862	.....
.....	.....	.....	July 9, 1862	.....
Mobile, September 4, 1862, and escaped thence January 15, 1863.				
Owners.....	Vessel, &c.....	22,998 00	Mar. 13, 1863	23,818 85
Master.....	Personal property.....	.....	.....	738 00
David Nevins.....	Vessel, &c.....	.....	Aug. 20, 1863	18,810 79
Neptune Ins. Co. of New York.....	do.....	.....	.....	6,000 00
Columbian Ins. Co. of New York.....	do.....	.....	.....	7,000 00
Washington Marine Ins. Co. of Boston.....	do.....	.....	.....	6,000 00
Commercial Mut. Ins. Co. of New York.....	Cargo, &c.....	.....	Jan. 12, 1863	5,500 00

List of American vessels captured

7. BY THE FLORIDA—Continued.

Name of vessel.	Character.	Name of master.	Names of owners.
Avon	Ship	Alfred Howes	Hartley Lord and Henry C. Lord, of Boston; Daniel Cleaves and John W. Deering, of Saco; George Wise and M. C. Matting, of Kennebunk, Me.; and Alfred Howes, of Dennis, Mass.
B. F. Hoxie	Ship	George B. Crary	Benjamin F. Hoxie, of Stonington, Conn.; Mary E. Stark, William Clift, Sanford A. Williams, Geo. B. Packer, Benjamin Burrows, Jr., Simeon Fish, Nathan G. Fish, George B. Crary, and William E. Mason, of Groton, Conn.; J. D. Fish & Co., of New York, and Joseph Griswold, of Coleraine, Mass.
Clarence	Brig	—— Phinney	Charles L. Colby and Albert Dunbar, of New York; Nathaniel P. Mann, Nehemiah P. Mann, Garduer Colby, and William N. Batson, of Boston; Thomas Hastings, Henry Scudder, Thomas N. Hastings, and Albert Dunbar, of Brewster, Mass.; Frederick Dunbar, of Yarmouth, Mass.; Geo. Cogswell, of Bradford, Mass.; and James S. McClellan, of Jamaica Plains, Mass.
Commonwealth	Ship	James S. McClellan..	

and destroyed, &c.—Continued.

Names of claimants.	Property destroyed.	Value.	When destroyed.	Am't of claim.
Owners	Vessel and freight		Mar. 29, 1864	\$78,000 00
Master	Personal property, &c			3,060 00
H. C. Finn, mate	Personal property			500 00
Sun Mut. Ins. Co. of New York	Vessel, &c			9,000 00
Columbian Ins. Co. of New York	Cargo			7,000 00
Great Western Ins. Co. of New York	Vessel, &c			30,000 00
China Mut. Ins. Co. of Boston	Freight			5,000 00
Mercantile Mut. Ins. Co. of New York	Vessel, &c			8,000 00
United States Guano Co. of New York	Cargo			32,701 40
Owners	Vessel and freight	\$70,000 00		96,000 00
Master	Personal property, &c			2,000 00
N. P. Mann & Co., of Boston	Vessel, &c	332,000	May 6, 1863	22,250 00
George J. Brooks & Co., of New York	Merchandise		Apr. 17, 1863	1,235 00
Dimon Hubbard, of Malden, Mass.	do			635 00
Thomas Emery's Sons, of Cincinnati	do			4,488 20
Alex. R. Baldwin, of San Francisco	do			15,000 00
Roberts, Morrison & Co., of ———	do			6,394 20
Van Winkle & Duncan, of New York	do			893 09
Hosletter & Smith, of Pittsburg, Pa.	do			2,072 09
Coffin, Redington & Co., of New York	do			3,342 63
Murphy, Grant & Co., of New York	do			15,388 77
Van Antwerp & Massol, of New York and Sacramento	do			714 18
Emanuel & Jacob Rosenfeldt, of N. Y.	do			18,744 96
Heller & Bros., of New York and San Francisco	do			4,008 24
James de la Montanya, of San Francisco	do			1,375 15
Jacob Zeeh, of San Francisco	do			1,253 96
John Taylor, of San Francisco	do			904 28
John Young Hallock, Miles B. Carpenter, H. C. Parker, and C. Christiansen, of San Francisco	do			2,948 80
David N. Hawley, Walter Nichols, and George T. Hawley, of San Francisco	do			8,496 19
Thomas Day, of San Francisco	do			5,316 69
Charles W. Armes, George W. Armes, and Richard B. Dallam, of San Francisco	do			1,903 61
Joseph Pollack, of New York, and Leopold Pollack, of San Francisco	do			253 80
Edward Burke, and Benjamin and William Franklin Whittier, of San Francisco	do			1,745 94
H. Cohn & Co., of New York and San Francisco	do			5,222 35
John E. Louer, of New York	do			474 18
William Heller, of New York, and Louis and Martin Sacks, of San Francisco	do			5,491 00
Oscar Foss, of San Francisco	do			963 05
Edward Schultz, of San Francisco	do			3,507 42
Scholls & Bros., of New York	do			5,606 80
A. Rich & Bro., and S. Rich & Bro., of New York and San Francisco	do			220 87
Nash & Fogg, of San Francisco	do			4,911 14
Benchly & Co., of San Francisco	do			791 72
Treadwell & Co., of Boston and San Francisco	do			5,718 91
J. Strauss, Bros. & Co., of New York	do			15,932 40
H. H. Bancroft & Co., of San Francisco	do			850 00
Conroy & O'Connor, of New York	do			1,717 84
Jones & Hewlett, of New York	do			691 40
Charles G. Hooker, of San Francisco	do			4,598 20
Z. Einstein & Bros., of Boston	do			1,267 50
Rockwell, Coye & Co., of San Francisco	do			1,597 67
Emanuel Hoffman, of New York	do			632 75
Andrew Kohler, of San Francisco	do			946 00
Metropolitan Ins. Co. of New York	Cargo			2,000 00
Atlantic Mut. Ins. Co. of New York	do			62,044 00
Pacific Mut. Ins. Co. of New York	do			13,564 00
Sun Mut. Ins. Co. of New York	do			2,687 00
Columbian Ins. Co. of New York	do			17,428 00
New England Mut. Mar. Ins. Co. of Boston	Vessel, &c			22,500 00
Manufacturers' Ins. Co. of Boston	Merchandise			8,700 00
Union Mut. Ins. Co. of New York	do			5,000 00

List of American vessels captured

7. BY THE FLORIDA—Continued.

Name of vessel.	Character.	Name of master.	Names of owners.
Commonwealth—Cont'd.			
Corris Ann	Brig	—— Small	
Crown Point	Ship	John N. Giet	Francis Curtis, Sam'l E. Peabody, and Francis Peabody, of Boston.
David Lapaley	Bark	—— Brown	
Electric Spark	Steamer	John C. Graham	William J. Taylor, of Philadelphia.....

and destroyed, &c.—Continued.

Names of claimants.	Property destroyed.	Value.	When destroyed.	Am't of claim.
Neptune Ins. Co. of New York.....	Merchandise.....	.....	.....	\$2,000 00
Great Western Ins. Co. of New York.....	Cargo.....	.....	.....	2,730 00
California Ins. Co. of San Francisco.....	do.....	.....	.....	900 00
Master.....	Personal property, &c.....	.....	Jan. 22, 1863	4,800 71
Fuller, Lord & Co., of New York.....	Merchandise.....	.....	May 13, 1863	5,280 28
S. Morris, Locke & Montague, of N. York.....	do.....	.....	.....	1,675 74
William Ward Peck, of Brooklyn.....	do.....	.....	.....	1,091 68
Dimon Hubbard, of Malden, Mass.....	do.....	.....	.....	3,108 98
George J. Brooks & Co., of New York.....	do.....	.....	.....	415 91
Coffin, Reddington & Co., of New York.....	do.....	.....	.....	2,906 92
Thomas Emery's Sons, of Cincinnati.....	do.....	.....	.....	3,534 30
Van Winkle & Daacan, of New York.....	do.....	.....	.....	169 77
J. Heller & Bros., of New York, and M. Heller & Bros., of San Francisco.....	do.....	.....	.....	7,378 59
Lysander Button, of New York.....	do.....	.....	.....	1,137 95
James de la Montanya, of San Francisco.....	do.....	.....	.....	5,590 43
John Y. Hallock, M. B. Carpenter, H. C. Parker, and Christian Christianson, of San Francisco.....	do.....	.....	.....	1,772 14
David N. Walter N., and George T. Hawley, of San Francisco.....	do.....	.....	.....	6,955 03
J. W. Britton & Co., of San Francisco.....	do.....	.....	.....	2,491 57
Joseph & Leopold Pollack, of San Francisco.....	do.....	.....	.....	939 28
Abraham S. Rosenbaum, Joseph Brandenstein, of New York, and Moses Rosenbaum, of San Francisco.....	do.....	.....	.....	6,758 20
H. Cohn & Co., of San Francisco.....	do.....	.....	.....	5,685 74
John E. Louer, of New York.....	do.....	.....	.....	384 00
William Heller, of New York, and Louis and Martin Sachs, of San Francisco.....	do.....	.....	.....	9,604 61
David A. and Robert S. Scrimsen, and Daniel B. Phillips, of Brooklyn.....	do.....	.....	.....	307 00
Edward Schultz, of San Francisco.....	do.....	.....	.....	2,352 80
Scholle & Bros., of San Francisco.....	do.....	.....	.....	5,806 81
A. Rich & Bro. and S. Rich & Bro., of New York and San Francisco.....	do.....	.....	.....	944 95
Ezra F. Wood & Co., of Boston.....	do.....	.....	.....	4,739 34
Benchly & Co., of San Francisco.....	do.....	.....	.....	3,553 82
Wm. H. Baxter & Co., of San Francisco.....	do.....	.....	.....	805 93
Tilton & McFarland, of New York.....	do.....	.....	.....	1,675 00
Treadwell & Co., of Boston and San Francisco.....	do.....	.....	.....	6,860 24
Tay, Brooks & Backus, of San Francisco.....	do.....	.....	.....	797 02
Conroy & O'Connor, of New York.....	do.....	.....	.....	4,989 24
Jones & Hewlett, of New York.....	do.....	.....	.....	474 75
Charles G. Hooker, of San Francisco.....	do.....	.....	.....	4,804 04
Z. Einstein & Bros., of Boston.....	do.....	.....	.....	1,555 75
Andrew Kohler, of San Francisco.....	Merchandise.....	.....	.....	518 00
Belleview White Lead Co., of New York.....	do.....	.....	.....	900 00
Commercial Mut. Ins. Co. of New York.....	Cargo.....	.....	.....	4,800 00
Atlantic Mut. Ins. Co. of New York.....	do.....	.....	.....	63,453 00
Pacific Mut. Ins. Co. of New York.....	do.....	.....	.....	198 00
Metropolitan Ins. Co. of New York.....	do.....	.....	.....	1,700 00
Sun Mut. Ins. Co. of New York.....	do.....	.....	.....	5,619 00
Columbian Ins. Co. of New York.....	do.....	.....	.....	34,549 00
New England Mut. Mar. Ins. Co. of Boston.....	Vessel and cargo.....	.....	.....	28,000 00
California Mut. Mar. Ins. Co. of San Francisco.....	Cargo.....	.....	.....	10,085 30
Manufacturers' Ins. Co. of Boston.....	Vessel and cargo.....	.....	.....	21,450 00
Union Mut. Ins. Co. of New York.....	do.....	.....	.....	11,150 00
Washington Marine Ins. Co. of Boston.....	Cargo.....	.....	.....	1,587 89
New York Mut. Ins. Co. of New York.....	do.....	.....	.....	4,114 00
Great Western Ins. Co. of New York.....	Cargo, &c.....	.....	.....	15,149 00
Mercantile Mut. Ins. Co. of New York.....	Cargo.....	.....	.....	10,000 00
Owner.....	Vessel, &c.....	.....	July 10, 1864	166,000 00
Edward Anthony, H. T. Anthony & Co., of New York.....	Merchandise.....	.....	.....	1,708 51
M. W. McChesney & Co., of New Orleans.....	do.....	.....	.....	3,201 44
Samuel and Chas. S. Perry and S. B. Potter.....	do.....	.....	.....	2,455 09
Tuthill, Miller & Co., of New York.....	do.....	.....	.....	898 32
Bernard Finckle, of New York.....	do.....	.....	.....	3,289 20
William F. White, of New Orleans.....	do.....	.....	.....	857 63
Schneider & Zuberbier, of New Orleans.....	do.....	.....	.....	1,936 68
Shook & Morgan, of New York.....	do.....	.....	.....	1,460 72
Francis Rickert, of New Orleans.....	do.....	.....	.....	2,437 16
Commercial Mut. Ins. Co. of New York.....	Cargo.....	.....	.....	350 00
Pacific Mut. Ins. Co. of New York.....	do.....	.....	.....	48,153 00
Columbian Ins. Co. of New York.....	do.....	.....	.....	40,900 00

List of American vessels captured

7. BY THE FLORIDA—Continued.

Name of vessel.	Character.	Name of master.	Names of owners.
Electric Spark—Cont'd.			
Estelle	Brig	—— Brown .....	.....
Francis B. Cutting	Ship	J. T. Maloney .....	.....
Geo. Latimer, (bonded)	Schooner	—— Smith .....	.....
Gen. Berry	Bark	—— Hooper .....	.....
Golconda	Bark	Benjamin Winslow	Matthew Howland, George Howland, Mat thew Howland, trustee, and Edward S. Taber, of New Bedford, Mass.
Greenland	Bark	Timothy Everett	John H. Kimball, of Bath, Me.; Josiah Mitchell, Humphrey Snow, Coan Jordan, Joseph C. Given, of Brunswick, Me.; Lewis Thompson, of Topsham; Frederick W. Dearborn, Henry A. Merryman, of Harpwell, Me.; and Allen O. Peck, of Providence, R. I.
Harriet Stevens	Bark	John W. Warmwell .....	.....
Henrietta	Bark	George F. Brown	Thomas Whitridge, of Baltimore.
Jacob Bell	Ship	Charles H. Frisbie	Edward H. R. Lyman, A. A. Low, Josiah O. Low, and Harriet W. Bell, of New York; Susan D. Brown, of Princeton, N. J.; Fred- erick F. Cornell, of Somerville, N. J.; Fred- erick L. Washburne, of Boston; Edward King and William H. King, of Newport, R. I.
Lapwing	Bark	James Bolger	Eben Bacon and William Bacon, of West Roxbury, Mass.; and Daniel G. Bacon, of New York.
Margaret Y. Davis	Schooner	—— West .....	.....
M. J. Colcord	Bark	Rufus Harriman	Alfred Blanchard, estate of Elisha Sherman, Benjamin T. Martin, Henry Avery, and Albert Vinal, of Boston; Josiah A. Colcord, William Berry, and John C. Partridge, of Prospect, Me.; Lewis Walsh, Benjamin Carver, and Jonathan Chase, of New York. Thomas Whitridge, of Baltimore.
Mondamin	Bark	A. Phinney	Thomas Whitridge, of Baltimore.
Onaida	Ship	Jesse F. Potter	Thomas S. Hathaway, of New Bedford.
Red Gauntlet	Ship	A. H. Lucas	Francis Boyd, of Boston.
Rienzi	Schooner	—— Avery	Gideon Bowley and Joshua E. Bowley, of Provincetown, Mass.
Southern Cross	Ship	Benjamin F. Howes	Charles J. Morrell and Ezra H. Baker, of Boston; and Benjamin K. Hough, jr., of Gloucester, Mass.
Southern Rights, (bond'd)	Ship	—— Knowles .....	.....

and destroyed, &c.—Continued.

Names of claimants.	Property destroyed.	Value.	When destroyed.	Am't of claim.
New York Mut. Ins. Co. of New York....	Cargo			\$627 00
Sun Mut. Ins. Co. of New York	do			3,000 00
Neptune Ins. Co. of New York	Vessel, &c.	\$12,000 00	Jan. 19, 1863	4,000 00
.....	.....	.....	Aug. 6, 1863	.....
.....	.....	.....	May 18, 1864	.....
.....	.....	.....	July 10, 1863	.....
.....	.....	.....	July 8, 1864	.....
Owners	Vessel, &c.			33,734 00
Commercial Mut. Mar. Ins. Co. of New York.	Cargo			15,960 00
Ocean Mut. Ins. Co. of New Bedford .....	.....			10,300 00
Pacific Mut. Mar. Ins. Co. of New Bedford.	Vessel, &c.			4,925 00
Union Mut. Mar. Ins. Co. of New Bedford	do			15,000 00
Columbian Ins. Co. of New York	Cargo			18,850 00
Owners	Vessel, &c.			37,210 00
Masters	Personal property, &c.			1,425 00
Columbian Ins. Co. of New York	Vessel and cargo		July 1, 1864	10,500 00
Owner	Vessel, &c.	57,049 60	April 23, 1863	39,955 95
Thomas Whitridge & Co. of Baltimore	Merchandise			16,315 95
Baltimore Marine Ins. Co. of Baltimore	Cargo			20,000 00
A. A. Low & Bros. of New York	Vessel and merch'dise	1,500,000 00	Feb. 12, 1863	62,705 30
Pacific Mut. Ins. Co. of New York	Cargo			10,000 00
Atlantic Mut. Ins. Co. of New York	do			124,883 00
Commercial Mut. Ins. Co. of New York	Vessel and cargo			17,500 00
Martha N. Williams, of Ulster, N. Y.	Personal property			1,653 18
Charles W. Johnson, of Swanton, India	do			200 00
Sun Mut. Ins. Co. of New York	Vessel and cargo			22,119 00
Manufacturers' Ins. Co. of Boston	Cargo			5,800 00
Union Mut. Ins. Co. of New York	do			7,807 00
New York Mut. Ins. Co. of New York	do			17,500 00
Great Western Ins. Co. of New York	do			3,200 00
China Mut. Ins. Co. of Boston	Vessel, &c.			21,000 00
Franklin Ins. Co. of Boston	Cargo			3,200 00
Mercantile Ins. Co. of New York	do			15,000 00
Atlantic Mut. Ins. Co. of New York	Vessel and cargo		Mar. 9, 1863	55,000 00
China Mut. Ins. Co. of Boston	Cargo			20,000 00
Owners	Vessel, &c.		July 9, 1864	27,124 03
Manufacturers' Ins. Co. of Boston	Cargo		Mar. 13, 1863	10,000 00
American Ins. Co. of Boston	do			10,000 00
Mercantile Mut. Ins. Co. of New York	Vessel, &c.			3,500 00
Commercial Mut. Ins. Co. of New York	Cargo			32,933 09
Owner	Vessel, &c.		Sept. 26, 1864	15,095 11
Columbian Ins. Co. of New York	do			10,080 00
Owner	Vessel and cargo	760,000 00	April 24, 1863	86,638 61
Master, of Salem, Mass.	Personal property, &c.			4,500 00
Metropolitan Ins. Co. of New York	Cargo			5,000 00
Pacific Mut. Mar. Ins. Co. of New Bedford	do			10,100 00
Sun Mut. Ins. Co. of New York	do			32,179 00
Columbian Ins. Co. of New York	do			30,000 00
New England Mut. Mar. Ins. Co. of Boston	do			23,300 00
Commercial Mut. Mar. Ins. Co. of New York	do			12,017 00
Mutual Marine Ins. Co. of New Bedford	Vessel, &c.			10,000 00
Neptune Ins. Co. of New York	Cargo			5,000 00
Washington Marine Ins. Co. of Boston	do			7,500 00
New York Mut. Ins. Co. of New York	do			25,000 00
Great Western Ins. Co. of New York	do			60,000 00
Mercantile Mut. Ins. Co. of New York	do			18,279 00
Union Mut. Mar. Ins. Co. of New Bedford	Vessel, &c.			15,000 00
Owner	Vessel and cargo			108,219 23
Richard F. Dodge, first officer	Personal property			989 00
Sun Mut. Ins. Co. of New York	Cargo			9,060 00
Atlantic Mut. Ins. Co. of New York	do			5,200 00
Great Western Ins. Co. of New York	do			11,000 00
China Mut. Ins. Co. of Boston	do			6,220 00
Mercantile Mut. Ins. Co. of New York	do			7,500 00
Owners	Vessel, &c.		July 8, 1863	8,487 00
New England Mut. Mar. Ins. Co. of Boston	Ship, &c.		June 6, 1863	20,000 00
Metropolitan Ins. Co. of New York	Vessel, &c.			5,000 00
Columbian Ins. Co. of New York	do			15,000 00
China Mut. Ins. Co. of Boston	do			15,000 00
.....	.....		Aug. 22, 1863	.....

List of American vessels captured

7. BY THE FLORIDA—Continued.

Name of vessel.	Character.	Name of master.	Names of owners.
Star of Peace.....	Ship	Francis M. Hinckley.	Charles Hill and Charles F. Hill, of West Roxbury; John Currier, Jr., of Newburyport, Mass.; and William Lambert, of Portsmouth, N. H.
Sunrise, (bonded)	Ship	Richard Luce.....	.....
Varnum H. Hill, (bonded)	Schooner.....	Reuben Freeman.....	.....
William B. Nash.....	Brig	Temple C. Coffin.....	.....
Windward.....	Brig	Richard Roberts.....	.....
William C. Clark.....	Brig	Benjamin R. Redman.....	.....
Zelinda.....	Bark.....	Shackford.....	.....

8. BY THE GEORGIA, (a vessel built and fitted out in British ports.)

Bold Hunter.....	Ship	Rowland H. Crosby..	Paul Sears and Reuben Hopkins, of Boston; Rowland H. Crosby, of West Cambridge; James Smith, of Cambridgeport; Alexander C. Childs, of Barnstable; Solomon Tayler, of Yarmouth; and William M. Eaton, of New Orleans.
City of Bath.....	Ship	Cooper.....	.....
Constitution.....	Ship	Joseph Webster.....	Joseph Walsford, of New York.....
Dictator.....	Ship	George M. Phillips....	Charles R. Green, of New York.....
Geo. Griswold, (bonded)	Ship	Pettingill.....	George Griswold.....
Good Hope.....	Bark.....	John H. Affelhay.....	Joseph Jaigi and Thomas Austin Goddard, of Boston.
John Watt, (bonded)....	Ship	Winchell.....	.....
J. W. Seaver, (bonded)	Bark.....	Snow.....	.....
Prince of Wales, (bonded)	Ship	Morse.....	.....

9. BY THE JEFF. DAVIS, (a vessel fitted out at Charleston, June 23, 1861.)

D. C. Pierce.....	Bark.....	Quiris.....	.....
Ella.....	Schooner.....	Warren.....	.....
Enchantress.....	Schooner.....	Deveraux.....	.....
John Crawford.....	Ship	Edge.....	.....
John Welsh.....	Brig	Fifield.....	.....
Rowena.....	Bark.....	Wilson.....	.....
S. J. Waring, (recaptured)	Schooner.....	Smith.....	.....
W. McGilvery.....	Brig	Harriman.....

10. BY THE LAPWING, (a tender of the Florida.)

Kate Dye, (bonded).....	Ship	A. Dyer.....
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11. BY THE NASHVILLE, (a steamer fitted up at Charleston, October 26, 1861.)

Harvey Birch.....	Ship	Nelson.....	John H. Brower & Co., of New York.
Robert Gillilan.....	Schooner.....	Smith.....	.....

12. BY THE OLUSTER.

A. J. Bird.....	Schooner.....	J. H. French.....	John Bird, of Rockland, Me., and others.....
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and destroyed, &c.—Continued.

Names of claimants.	Property destroyed.	Value.	When destroyed.	Am't of claim.
Owners.....	Vessel and cargo.....	.....	Mar. 6, 1863	\$77,884 00
Washington Ins. Co. of Boston.....	Vessel, &c.....	.....	.....	14,000 00
Henry, Bluth, Lamont, and Eugene Du Pont, of Wilmington, Del.....	Cargo.....	.....	.....	22,000 00
Commercial Ins. Co. of New York.....	do.....	.....	.....	13,815 00
Pacific Mut. Ins. Co. of New York.....	do.....	.....	.....	5,000 00
Sun Mut. Ins. Co. of New York.....	do.....	.....	.....	41,622 00
Columbian Ins. Co. of New York.....	do.....	.....	.....	10,000 00
Atlantic Mut. Ins. Co. of New York.....	do.....	.....	.....	108,749 00
New England Mut. Mar. Ins. Co. of Boston.....	do.....	.....	.....	12,500 00
Manufacturers' Ins. Co. of Boston.....	do.....	.....	.....	40,949 00
Union Mut. Ins. Co. of New Bedford.....	do.....	.....	.....	16,262 00
New York Mut. Ins. Co. of New York.....	do.....	.....	.....	11,445 00
Great Western Ins. Co. of New York.....	Freight.....	.....	.....	10,000 00
Franklin Ins. Co. of Boston.....	do.....	.....	.....	5,000 00
China Mut. Ins. Co. of Boston.....	Cargo.....	.....	.....	33,000 00
.....	.....	\$80,000	July 7, 1863	.....
.....	.....	70,000	June 28, 1863	.....
.....	.....	.....	July 8, 1863	.....
Columbian Ins. Co. of New York.....	Vessel and cargo.....	.....	.....	20,500 00
Metropolitan Ins. Co. of New York.....	Vessel, &c.....	.....	.....	8,849 75
Manufacturers' Ins. Co. of Boston.....	Cargo.....	.....	.....	25,000 00
Great Western Ins. Co. of New York.....	do.....	.....	.....	4,000 00
Atlantic Mut. Ins. Co. of New York.....	do.....	.....	Jan. 22, 1863	3,953 00
New England Mut. Mar. Ins. Co. of Boston.....	Vessel.....	.....	June 17, 1864	5,000 00
.....	.....	.....	June 10, 1864	.....
Owners.....	Vessel, &c.....	.....	Oct. 9, 1863	25,000 00
Washington Ins. Co. of Boston.....	do.....	.....	.....	3,000 00
Sun Mut. Ins. Co. of New York.....	Vessel and cargo.....	.....	.....	10,000 00
Columbian Ins. Co. of New York.....	Vessel, &c.....	.....	.....	16,000 00
.....	.....	.....	June 28, 1863	.....
Mercantile Mut. Ins. Co. of New York.....	Ship and freight.....	.....	June 25, 1863	22,500 00
Columbian Ins. Co. of New York.....	Vessel and cargo.....	.....	.....	13,500 00
Atlantic Mut. Ins. Co. of New York.....	Cargo.....	.....	.....	5,000 00
Washington Marine Ins. Co. of Boston.....	Vessel.....	.....	.....	5,000 00
Great Western Ins. Co. of New York.....	Vessel and freight.....	.....	.....	10,000 00
Owner.....	do.....	.....	April 25, 1863	66,570 00
China Mut. Ins. Co. of Boston.....	Vessel, &c.....	.....	.....	10,000 00
Columbian Ins. Co. of New York.....	do.....	.....	.....	10,000 00
Owner.....	Depreciation.....	.....	June 8, 1863	30,000 00
Manufacturers' Ins. Co. of Boston.....	Vessel, &c.....	.....	June 13, 1863	46,861 50
American Ins. Co. of Boston.....	Freight and cargo.....	.....	.....	10,900 00
China Mut. Ins. Co. of Boston.....	Cargo.....	.....	.....	15,000 00
.....	Vessel, &c.....	.....	.....	15,000 00
.....	.....	.....	Oct. —, 1863	.....
.....	.....	.....	June 22, 1863	.....
.....	.....	.....	July 16, 1863	.....
.....	.....	.....	June —, 1861	.....
.....	.....	.....	— —, 1861	.....
.....	.....	.....	July 16, 1861	.....
.....	.....	.....	Aug. —, 1861	.....
.....	.....	.....	July 16, 1861	.....
.....	.....	.....	June —, 1861	.....
.....	.....	.....	July 16, 1861	.....
.....	.....	.....	July —, 1861	.....
.....	.....	.....	June 17, 1863	.....
Owners.....	Vessel, &c.....	.....	Nov. 12, 1861	63,036 70
Master.....	Personal property, &c.....	.....	.....	2,547 25
Mate and ship's carpenter.....	do.....	.....	.....	1,280 00
Crew.....	do.....	.....	.....	720 00
.....	.....	.....	Feb. 26, 1862	.....
Owners.....	Vessel and cargo.....	.....	Nov. 3, 1864	24,869 00
Nathaniel Nichols, mate.....	Personal property.....	.....	.....	206 00

List of American vessels captured

12. BY THE OLUSTEE—Continued.

Name of vessel.	Character.	Name of master.	Names of owners.
Arcole.....	Ship .....	.....	Samuel P. Craft, Josiah Atkins, and Edward Atkins, of New York.
E. F. Lewis	Schooner..	— Lee .....	.....
Empress Theresa.....	Bark	Nathaniel O. Walker.	John M. Bandell, of Baltimore.
T. D. Wagner.....	Brig	J. Bergman .....	.....
Vapor.....	Schooner..	.....	.....

13. BY THE RETRIBUTION, (a schooner fitted out in Cape Fear River.)

Emily Fisher	Brig	— Staples .....	.....
Hanover	Schooner..	Washington Case	Godfrey Rider, of Provincetown, Mass., and others.
J. P. Elliott.....	Brig	— Devereux .....	.....

14. BY THE SALLIE, (a schooner fitted out at Charleston, October 10, 1861.)

Betsy Ames	Brig	Richard C. Bartlett .....	.....
Grenada	Brig	A. C. Pettingill .....	.....

15. BY THE SAYANNAH, (a schooner fitted out in Charleston, June, 1861.)

Joseph	Brig	— Myers
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16. BY THE SHENANDOAH, (a steamer fitted out from an English port.)

Abigail	Bark	Ebeneser T. Nye	Loune Snow, Oliver Crocker, George O. Crocker, Pardon Tillinghast, of New Bedford; Ebeneser F. Nye, of Pocasset, Mass.
Adelaide (bonded)	Bark	— Williams .....	.....
Alina	Bark	Edward Staples	Edward Staples, of Stockton, Ma.; Wm. McGilvery, of Searspoint; John M. Lane, Joseph Cook, F. & P. Pendleton, Lebbeus Curtis, Wm. F. Black, Woodman Cross, and Robert Porter, of Searspoint; Benj. Carver, of New York.
Brunswick.....	Ship	Alden T. Potter	Joseph Wing, W. K. Wing, Benj. Cummings, Joseph Brownell, Lyman Wing, Jos. Tabor, Thos. R. Tabor, Charles T. Binney, Amos Whitney, and Abraham Ashley, of New Bedford; Christopher A. Church, of Westport; Alden T. Potter, of Dartmouth; Benj. B. Howard, of West Bridgewater; Benj. B. Church, of Chilmark, all of Mass.; and Edward M. Robinson, of New York.
Catharine	Bark	Wm. H. Phillips	John P. Hemsted, James Smith, Thomas W. Williams, Henry P. Haven, Robert B. Smith, and Mrs. Eliza B. Edgar, of New London, Conn.; Samuel Willett and Grinnell, Minturn & Co., of New York.
Charter Oak	Schooner..	Samuel J. Gilman	Samuel J. Gilman, James M. Curtis, and Sheldon Allen, of San Francisco.
Congress.....	Bark	Daniel D. Wood	Gideon Allen, Gilbert Allen, F. E. Stanbury, Joseph Clark, Pardon Tillinghast, Jonathan Smith, Eliza W. Allen, George Homer, and Frederick Homer, of New Bedford.
Covington	Bark	John L. Jenks	Charles T. Childs, Shubel P. Childs, and Guy M. Fessenden, of Warren, R. I.; John L. Jenks, of Edgartown, Mass.; Thos. L. Jenks and Samuel Talbot, of Boston; David S. Wilson, Thomas G. Wilson, Henry R. Wilson, and James G. Wilson, of Baltimore, Md.
Delphine	Bark	William G. Nichols	Elliab W. Metcalf and Samuel D. Thurston, of Bangor; Phineas Pendleton, Jr., Phineas Pendleton 3d, Wm. G. Nichols, and Wm. McGilvery, of Searspoint; Henry Darling, of Bucksport; Benj. Carver, H. D. Brookman, and John U. Brookman, of New York.
D. Godfrey.....	Bark	Samuel W. Hallett	Horace Loring and James M. Shute, Jr., of Boston.
Edward	Bark .....	.....	Thomas Knowles, John P. Knowles, John Knowles 2d, John P. Knowles, Jr., Charles Hitch, Jonathan Brown, and Anton Joseph, of New Bedford.
Edward Cary.....	Ship	Geo. D. Baker	Charles Hare, of San Francisco
Euphrates	Ship	Thos. B. Hathaway	Executors of Cornelius Howland, George Barney, and Frederick S. Gifford, of New Bedford; Abraham R. Gifford, of Westport, Mass.; Andrew Howland, of Boston; and Henry Grinnell, of New York.

and destroyed, &c.—Continued.

Names of claimants.	Property destroyed.	Value.	When destroyed.	Am't of claim.
Sun Mut. Ins. Co. of New York	Cargo .....	.....	Nov. 3, 1864	\$8,000 00
Columbian Ins. Co. of New York	do .....	.....	Nov. 3, 1864	10,000 00
.....	Vessel, &c. ....	.....	Nov. 1, 1864	30,000 00
.....	.....	.....	Nov. 3, 1864	.....
.....	Cargo .....	.....	Nov. 3, 1864	1,005 08
Union Mut. Ins. Co. of New York	Cargo .....	.....	Feb. 19, 1863	9,393 26
Godfrey Elder	Vessel, &c. ....	.....	Jan. 31, 1863	10,000 00
Master	Personal property .....	.....	Jan. 10, 1863	1,630 00
Union Mut. Ins. Co. of New York	Cargo .....	.....	Oct. 17, 1861	5,540 00
.....	.....	.....	Oct. 13, 1861	.....
.....	.....	.....	June 15, 1861	.....
Owners	Vessel, &c.	\$74,639 00	May 27, 1865	231,398 70
Master	Merchandise, &c. ....	.....	.....	12,505 00
James F. Taber, mate	Personal property .....	.....	.....	610 50
.....	.....	\$24,000 00	Dec. 4, 1864	.....
Owners	Vessel, &c.	\$25,000 00	Oct. 30, 1864	82,000 00
Master	Personal prop'y, &c. ....	.....	.....	3,617 43
Columbia Insurance Co. of New York	Vessel, &c.	\$16,273 00	June 28, 1865	4,000 00
Commercial Mut. Marine Ins. Co. of N. Y.	do .....	.....	.....	13,200 00
Owners	Cargo	\$26,174 00	June 26, 1865	18,398 75
Jas. O'Donnell, San Francisco, 4th officer ..	Personal prop'y, &c. ....	.....	.....	3,800 00
Atlantic Mutual Insurance Co. of N. Y.	Vessel, &c. ....	.....	.....	27,676 00
Mercantile Mutual Insurance Co. of N. Y.	do .....	.....	.....	5,000 00
Columbian Insurance Company of N. Y.	Cargo .....	.....	.....	3,500 00
Manufacturers' Insurance Co. of Boston ..	do .....	.....	.....	3,500 00
Atlantic Mutual Insurance Co. of N. Y.	Vessel, &c.	\$15,000 00	Nov. 5, 1864	20,000 00
Owners	do	90,827 00	June 28, 1865	102,980 00
Master	Personal property .....	.....	.....	929 00
Metropolitan Insurance Company of N. Y.	Vessel, &c. ....	.....	.....	5,300 00
Atlantic Mutual Insurance Co. of N. Y.	do .....	.....	.....	35,700 00
Owners	do	43,764 00	June 28, 1865	91,119 65
John C. Mosher, mate	Personal property .....	.....	.....	514 00
Charles Smith Downs, seamen	Personal prop'y, &c. ....	.....	.....	889 00
Atlantic Mutual Insurance Co. of N. Y.	Vessel, &c. ....	.....	.....	15,000 00
Owners	do	76,000 00	Dec. 29, 1864	70,000 00
Master	Personal prop'y, &c. ....	.....	.....	5,100 00
Columbian Insurance Co. of New York .....	.....	.....	.....	2,000 00
New England Mutual Ins. Co. of Boston ..	Cargo	\$36,000 00	Nov. 8, 1864	863 00
Manufacturers' Insurance Co. of Boston ..	Cargo, &c. ....	.....	.....	12,950 00
Columbian Insurance Company of N. Y. ....	.....	.....	.....	33,278 00
Owners	Vessel, &c.	\$20,000 00	Dec. 4, 1864	180,000 00
Commercial Mut. Marine Ins. Co. of N. Y.	do .....	.....	.....	3,000 00
Union Mut. Marine Ins. Co. of New Bedford ..	do .....	.....	.....	16,875 00
Owner	do .....	.....	April 1, 1865	109,569 70
Owners	do .....	.....	June 21, 1865	158,938 50
Commercial Mut. Marine Ins. Co. of N. Y.	do .....	.....	.....	9,750 00

List of American vessels captured

16. BY THE SHENANDOAH—Continued.

Name of vessel.	Character.	Name of master.	Names of owners.
Favorite	Bark.....	Thomas G. Young...	Thomas G. Young, of Portland, Me.; Frank R. Whitwell, jr., and Hannah Whitwell, of Fairhaven, Mass.; Georgia Whitwell Mors, of Englewood, N. J.; and Anna E. W. Richmond, of New York.
General Pike, (ransomed)	Bark.....		
Gipsy	Bark.....	Orlando G. Robinson.	Thos. Mandell and Sophia Ann Howland, of New Bedford; Edward M. Cleveland, of Nantucket; and Edward Mott Robinson, of New York.
Harvest	Bark.....		
Hector	Ship.....	Amos A. Chase.	William J. Rotch, executor of Chas. W. Morgan and Leander A. Plummer, of New Bedford; Benj. S. Rotch and William R. Robinson, of Boston; Thomas A. Norton, of Edgartown, Mass.; and Francis Rotch, of Morris, N. Y.
Fillmore	Ship.....	John A. Macomber.	Wm. G. Tabor, estate of John Hunt, dec'd; Henry Taber, James Arnold, Robert Tuckerman, Wm. J. Rotch, and Joseph Brewster, of New Bedford; and Mary E. Gordon, of Brooklyn, N. Y.
Isaac Howland	Ship.....	Jeremiah Ludlow....	Thomas Mandell, Charles R. Tucker, Edward D. Mendell, and executor of Sylvia Ann Howland, of New Bedford; and executors of Edward Mott Robinson, of New York.
Isabella	Bark.....	Hudson Winalow....	Thos. Knowles, John P. Knowles, Joseph Knowles, William O. Brownell, Wright Brownell, George Barney, Slocum Allen, John A. Wood, and Thos. H. Knowles, of New Bedford; Deborah D. Goddard, of Boston; Hudson Winalow, of Freetown; James S. Winalow, of Dartmouth; Leeson Robinson, jr., of Easthaven, Mass.; and executors of Edward Mott Robinson, late of New York.
James Murray, (rans'd).	Bark.....		
Jireh Swift	Bark.....	Thomas W. Williams.	Jireh Swift, jr., Frederick S. Allen, Oliver Crocker, Geo. O. Crocker, Thomas W. Williams, Pardon Tillinghast, Jas. H. Howland, Abraham Delano, Allen Case, Joseph Clarke, and Nancy S. Billings, of New Bedford; Humphrey H. Swift and Wm. A. Russell, of New York.
Kate Prince, (bonded) ..	Ship.....	— Libbey	
Lizzie M. Stacey.....	Schooner..	William H. Archer....	Charles Brewer, Charles H. Lunt, Edward W. Brewer, and James W. Sweet, of Roxbury, Mass.
Martha	Bark.....	Joshua L. Macomber.	Wm. T. Smith, Wm. O. Brownell, John A. Wood, Joseph W. Cornell, estate of Maj. Brownell, deceased, Wm. H. Sanbury, and Daniel Homer, of New Bedford; Andrew B. Potter, of West Newton; Ira Porter, of Boston; and estate of Bernard H. Dally, late of New York.
Nansen	Ship.....	Samuel Green.....	Wm. C. N. Swift, of Dartmouth, Mass.; Eben Ferry, estate of Obed N. Smith, deceased, and Sarah S. Randall, of New Bedford; Henry Wilcox, of Westport; and Hannah P. Paine, of Beverly.
Nile, (bonded)	Bark.....		
Nimrod	Bark.....	James M. Clark	Wm. Gifford, of New Bedford; Nathaniel C. Casey, of Nantucket; Nehemiah P. Baker, of Falmouth; Luther Potter, Josiah Sherman, Watson W. Sherman, and Isaac R. Gifford, of Westport.
Pearl	Bark.....	— Thompson	
Sophia Thornton	Ship.....	Moses G. Tucker	John R. Thornton, Walker S. Thornton, Sophia B. Thornton, Deane Wood, estate of Willard Nye, deceased, Joseph Yarn, Abraham Delano, and Allen Case, of New Bedford; Elery T. Taber, and Charles Spooner, of Rochester, Mass.; estate of Sarah W. Bullard, late of New York; and Susan G. Powell, of Boston, Md.
Susan	Bark.....	F. W. Hanson.....	C. H. H. Mayer, of New York.
Susan Abigail	Brig		Shed & Wright, of San Francisco.

and destroyed, &c.—Continued.

Names of claimants.	Property destroyed.	Value.	When destroyed.	Am't of claim.
Owners	Vessel, &c.....	\$160,000 00	June 28, 1865	\$145,176 50
Atlantic Mutual Insurance Co. of N. Y.....	do.....			40,000 00
Master.....	Personal property.....			1,498 25
Metropolitan Insurance Company of N. Y.....	Vessel, &c.....	*30,000 00	June 28, 1865	10,000 00
			June 28, 1865	
Owners	Vessel, &c.....	80,000 00	June 28, 1865	95,738 75
Master.....	Personal prop'y, &c.....		June 28, 1865	7,211 00
John C. Allen, 1st mate.....	Personal property.....			1,200 00
Columbian Insurance Company of N. Y.....	Vessel, &c.....			14,000 00
Atlantic Mutual Insurance Co. of N. Y.....	do.....			10,000 00
		*34,750 00	April 1, 1865	
Owners	Vessel, &c.....	75,000 00	April 1, 1865	140,923 80
Mutual Marine Ins. Co. of New Bedford.....	do.....			10,375 00
Commercial Mut. Marine Ins. Co. of N. Y.....	do.....			4,500 00
Union Mut. Marine Ins. Co. of New Bedford.....	do.....			17,000 00
Owners	do.....	71,451 75	June 28, 1865	93,914 75
Master.....	Personal property.....			960 00
Atlantic Mutual Insurance Co. of N. Y.....	Vessel, &c.....			26,250 00
Metropolitan Insurance Company of N. Y.....	do.....			5,000 00
Owners	Vessel, &c.....	115,000 00	June 28, 1865	262,712 00
Master.....	Personal property.....			710 00
Atlantic Mutual Insurance Co. of N. Y.....	Vessel, &c.....			38,000 00
Com'l Mut. Marine Ins. Co. of N. Bedford.....	do.....			15,000 00
Columbian Insurance Company of N. Y.....	do.....			16,500 00
Owners.....	do.....	*87,765 00	June 28, 1865	262,712 00
Columbian Insurance Company of N. Y.....	do.....			3,050 00
N. England Mut. Marine Ins. Co. of Boston.....	do.....			1,000 00
Commercial Mutual Marine Ins. Co. of N. Y.....	do.....			1,000 00
Atlantic Mutual Insurance Co. of N. Y.....	do.....			16,800 00
Metropolitan Insurance Co. of N. Y.....	do.....			800 00
Owner	Vessel, &c.....	*61,960 00	June 28, 1865	283,587 50
Master.....	Personal property.....		June 24, 1865	963 00
James O. Aveline, 1st mate.....	do.....			180 25
Owners		38,000 00	Nov. 12, 1864	10,500 00
Francis M. Ashton, of Salem, Mass., mate.....	Personal prop'y, &c.....		Nov. 13, 1864	3,050 00
Mercantile Marine Ins. Co. of Boston.....	Vessel, &c.....			9,000 00
Columbian Insurance Company of N. Y.....	do.....			9,000 00
Owners	do.....	65,000 00	June 28, 1865	227,768 75
Master.....	Personal prop'y, &c.....			3,175 00
James Bowden, first mate.....	do.....			700 00
Charles H. Smith, second mate.....	do.....			625 00
Mercantile Mutual Ins. Co. of New York.....	Vessel, &c.....			1,000 00
Atlantic Mutual Ins. Co. of New York.....	do.....			23,900 00
Owners		89,424 50	June 28, 1865	102,424 50
Atlantic Mutual Ins. Co. of New York.....	Vessel, &c.....			47,500 00
Union Mut. Marine Ins. Co. of New Bedford.....	do.....			6,000 00
Sun Mutual Ins. Co. of New York.....	do.....			10,000 00
Metropolitan Ins. Co. of New York.....	do.....			9,000 00
		*25,500 00	June 28, 1865	
Owners	Vessel, &c.....	*29,980 00	June 28, 1865	210,280 87
Wellington Weaver, of San Francisco, first officer.....	Personal prop'y, &c.....			8,500 00
Atlantic Mutual Ins. Co. of New York.....	Vessel, &c.....			28,000 00
Owners	Vessel, &c.....	*10,000 00	April 1, 1865	83,333 34
John W. Thompson, chief mate.....	Personal prop'y, &c.....	*70,000 00	June 24, 1865	674 00
Commercial Mutual Marine Ins. Co. of New Bedford.....	Vessel, &c.....			15,000 00
Ocean Mutual Ins. Co. of New Bedford.....	do.....			3,050 00
Union Mut. Marine Ins. Co. of New Bedford.....	do.....			9,000 00
Owner	do.....	*5,436 00	Nov. 10, 1865	14,500 00
Owners	do.....		June 25, 1865	225,848 37

*List of American vessels captured*16. BY THE *SHENANDOAH*—Continued.

Name of vessel.	Character.	Name of master.	Names of owners.
Waverly	Bark	Richard Holley	David B. Kempton, Rodolphus Beetle, Peleg Slocum, J. A. Rogers, and William J. Rotch, and estate of Stephen N. Potter, deceased, of New Bedford; Charles E. Hawes, of Little Compton, R. I.
William Thompson	Ship	Francis C. Smith	William C. N. Smith, of Dartmouth, Mass.; Eben Perry, Jacob A. Howland, estate of Obed N. Swift, late of New Bedford; and Francis C. Smith, of Edgartown.
William C. Nye	Bark	P. H. Cooty	John C. Merrill, D. C. M. Ruer, Alfred Tabbs, Geo. H. Moore, Wm. How, Charles Hare, and P. H. Cooty, of San Francisco.

17. BY THE *ST. NICHOLAS*, (a steamer captured by the rebels in Chesapeake Bay in 1861.)

Margaret	Schooner	— Hansen .....	.....
Mary Pierce	Schooner	— Dodge .....	.....
Montecello	Brig	— Hopkins .....	.....

18. BY THE *SUMTER*,† (a steamer fitted out in New Orleans in 1861.)

Abble Bradford, (recaptured.)	Schooner .....	.....	.....
Albert Adams, (released.)	Brig	— Cousins .....	.....
Arcade	Schooner	— Smith .....	.....
Ben. Danning, (released.)	Brig	— Farney .....	.....
Cuba, (released.)	Brig	J. G. Foster .....	.....
Daniel Trowbridge	Schooner	W. H. Morrow .....	.....
Ebenezer Dodge	Bark	— Hoxie .....	.....
Golden Rocket	Ship	— Pendleton .....	.....
Investigator, (bonded) .....	.....	Charles G. Cowell .....	.....
Joseph Maxwell, (released)	Bark	— Davis .....	.....
Joseph Parkes	Brig .....	.....	.....
Louisa Kilham, (released)	Bark	— White .....	.....
Machias, (released)	Brig	— Shoppy .....	.....
Montmorency, (bonded) .....	.....	.....	.....
Nalad, (released)	Brig	— Chase .....	.....
Neapolitan	Bark	Adam Burdett .....	.....
Vigilans	Ship	R. Minott .....	.....
West Wind, (released)	Bark	— Saunders .....	.....

19. BY THE *TACONY*, (a tender of the Florida.)

Ada	Schooner .....	.....	.....
Arabella, (bonded)	Brig	— Conover .....	.....
Archer, (recaptured)	Schooner .....	.....	.....
Byzantium	Ship	— Robinson .....	.....
Elizabeth Ann	Schooner	— Thomas .....	.....
Florence, (bonded)	Schooner	— Gardner .....	.....
Goodspeed	Bark	J. L. Dutton .....	.....
Isaac Webb, (bonded)	Ship	— Hutchinson .....	.....
L. A. Macomber	Schooner	— Potter .....	.....
Marengo	Schooner	— Freeman .....	.....
Ripple	Schooner	— Gearing .....	.....
Rufus Choate	Schooner	— Smith .....	.....
Sbatemuc, (bonded)	Ship	J. H. Oxnard .....	.....
Umpire	Brig	Jesse Perry .....	.....
Wander	Schooner .....	.....	John S. Emery, Hiram A. Emery, George A. Hinman, John G. Mosley, and James Gammons, of Boston; Henry Wing, of Sandwich; Calvin Berry, of Hancock; Edward U. Higgins, of Trenton; and John West, of Franklin, Me.

20. BY THE *TALLAHASSEE*, (a steamer fitted out at Wilmington in 1864.)

Adriatic	Ship	Richard H. Moore	Estate of Elisha E. Morgan and R. H. Moore, of New York.
A. Richards	Brig	— Donovan .....	.....
Atlantic	Schooner	— Wam .....	.....

† The following vessels appear in the underwriter's list published in Hunt's Merchants' Magazine for Decem-
B. F. Martin, brig; California, bark; Glen, bark; Harvey Nutt, schooner; J. S. Harris, ship; N. Chase,

and destroyed, &c.—Continued.

Names of claimants.	Property destroyed.	Value.	When destroyed.	Am't of claim.
Owners.....	Vessel, &c.....	\$84,655 00	June 22, 1865	\$118,221 25
Master.....	Personal property, &c.....			1,732 00
Atlantic Mutual Ins. Co. of New York.....	Vessel, &c.....			31,250 00
Owners.....	do.....	105,083 75	June 22, 1865	181,843 75
Commercial Mutual Marine Ins. Co. of New Bedford.....	do.....			15,500 00
Ocean Mutual Ins. Co. of New Bedford.....	do.....			16,500 00
Union Mut. Marine Ins. Co. of New Bedford.....	do.....			22,500 00
Owners.....	do.....	62,067 50	June 26, 1865	260,212 50
Atlantic Mutual Ins. Co. of New York.....	do.....			20,000 00
.....	.....	.....	June 22, 1862	.....
.....	.....	.....	July 1, 1862	.....
.....	.....	.....	July 1, 1862	.....
.....	.....	.....	July 25, 1861	.....
.....	.....	.....	July 5, 1861	.....
.....	.....	.....	Nov. 26, 1861	.....
.....	.....	.....	July 5, 1861	.....
.....	.....	.....	July 4, 1861	.....
.....	.....	.....	Oct. 27, 1861	.....
Mutual Marine Ins. Co. of New Bedford.....	.....	.....	Dec. 8, 1861	2,250 00
.....	.....	*40,000 00	July 3, 1861	.....
.....	.....	*15,000 00	Jan. 18, 1862	.....
.....	.....	.....	July 27, 1861	.....
.....	.....	.....	Sept. 25, 1861	.....
.....	.....	.....	July 6, 1861	.....
.....	.....	.....	July 4, 1861	.....
.....	.....	*20,000 00	Nov. 25, 1861	.....
.....	.....	.....	July 6, 1861	.....
.....	.....	.....	Jan. 18, 1862	.....
.....	.....	*40,000 00	Dec. 3, 1861	.....
.....	.....	.....	July 6, 1861	.....
.....	.....	.....	June 23, 1863	.....
.....	.....	.....	June 12, 1863	.....
Manhattan Gaslight Co. of New York.....	Cargo.....	.....	June 24, 1863	.....
.....	.....	.....	June 16, 1863	.....
.....	.....	.....	June 22, 1863	.....
.....	.....	.....	June 22, 1863	.....
.....	.....	.....	June 23, 1863	.....
.....	.....	.....	June 20, 1863	.....
.....	.....	.....	June 20, 1863	.....
.....	.....	.....	June 22, 1863	.....
.....	.....	.....	June 22, 1863	.....
.....	.....	.....	June 22, 1863	.....
.....	.....	.....	June 24, 1863	.....
.....	Vessel, &c.....	.....	June 14, 1863	8,400 00
.....	.....	.....	June 22, 1863	.....
Owners.....	Vessel, &c.....	.....	Aug. 12, 1864	109,615 25
Wm. A. Ballie.....	Personal property.....	.....	.....	19,700 00
James G. Ladd.....	do.....	.....	.....	250 00
Master.....	do.....	.....	.....	4,762 00
Columbian Ins. Co. of New York.....	Cargo.....	.....	.....	27,000 00
Atlantic Mutual Ins. Co. of New York.....	do.....	.....	.....	19,921 00
Great Western Ins. Co. of New York.....	Cargo, &c.....	.....	.....	5,175 00
Sun Mutual Ins. Co. of New York.....	do.....	.....	.....	2,980 43
.....	.....	.....	Aug. 11, 1864	.....

ber, 1863, as being destroyed by the Sumter. This is, however, nowhere corroborated: Alvarado, bark; schooner; Ocean Eagle, ———; Santa Clara, brig; Sebastieck, ship; W. J. Robbins, bark.

List of American vessels captured

20. BY THE TALLAHASSEE—Continued.

Name of vessel.	Character.	Name of master.	Names of owners.
Bay State	Bark	— Sparrow .....	.....
Billow	Brig	— Reed .....	.....
Carrie Estelle	Brig	— Thurlow .....	.....
Castine	Ship	— Smith .....	.....
Coral Wreath	Brig	— Blake .....	.....
Etta Caroline	Steamer	— Poor .....	.....
Flora Reid	Schooner	— Jewett .....	.....
Glanvau	Bark	James Watts	Ambrose Snow, Joseph S. Burgess, Oliver Bryan, and Thos. Hussen, of New York; Oliver Bryan and Joseph Nickerson, of Boston; Harvey Mill, Thomas W. Dunn, James Overlock, and James Watts, of Thomaston, Me.
Goodspeed	Schooner	— Baxter .....	.....
Howard	Bark	— Burr .....	.....
James Bunk	Pilot boat .....	.....	Robert Yates, A. C. Malcom, C. W. Smith, Edward Fryer, Michael Lyons, of Brooklyn; and Henry Devere, of New York.
James Littlefield	Ship	— Bartlett .....	.....
J. H. Howen	Schooner	— Freeman .....	.....
Josiah Achom	Schooner	— Jones	John Birch, of Rockland, Me., and others
Lamont Dupont	Schooner	— Carson .....	.....
Magnolia	Schooner	— Chase .....	.....
Mercy Howe	Schooner	— Smith .....	.....
North America	Schooner	David C. Manwaring	Daniel Howard, Daniel Howard, jr., Edwin Howard, and Charles S. Howard, of East Lyme, Conn.
P. C. Alexander	Bark	— Merryman .....	.....
Pearl	Schooner	— Smith .....	.....
Rasselas	Schooner	— Woodward .....	.....
Roan	Schooner	Charles E. Phillips	Rob't Fowler, of Salisbury, Mass., and others
Sarah A. Boyce	Schooner	— Adams .....	.....
Sarah Louisa	Schooner	— Palmer .....	.....
Spokane	Schooner	— Sawyer .....	.....
William Bell	Pilot boat .....	.....	James Callahan, of Brooklyn; Joseph Henderson, John Van Duser, and William A. Anderson, of New York.

21. BY THE TUSCALOOSA, (a tender of the Alabama.)

Living Age	Ship	— Emery .....	.....
Santee, (bonded)	Ship	— Parker .....	.....

22. BY THE WINLOW, (fitted out at Wilmington in 1861.)

Herbert	Schooner	— Martin .....	.....
Itasca	Brig	— Conley .....	.....
Mary Alice	Schooner	— Walsh .....	.....
Priscilla	Schooner	— Crowther .....	.....
Transit	Schooner	Henry Knowles .....	.....

23. BY THE YORK.

Geo. V. Baker, (recapt'd)	Schooner .....	.....	.....
Total .....	.....	.....	.....



PARLIAMENTARY AND JUDICIAL APPENDIX.



APPENDIX No. I.

PARLIAMENTARY NOTICES OF MOTION FOR THE RECOGNITION OF THE SOUTHERN CONFEDERACY BY GREAT BRITAIN.*

PARLIAMENTARY NOTICES FOR THE RECOGNITION OF THE SOUTHERN CONFEDERACY.

[From printed Notice Book of the House of Commons for 1861.]

NOTICE GIVEN ON MONDAY, THE 4TH OF MARCH, 1861.

7. Mr. GREGORY, America: To call the attention of her Majesty's government to the expediency of prompt recognition of the southern confederacy, America.—[*An early day.*] [Not acted on.]

Mr. Dallas to Mr. Seward.

[Extract.]

No. 330.]

LEGATION OF THE UNITED STATES,
London, April 9, 1861.

SIR:

I beg to add that a phase of this subject will be introduced in the House of Commons to-night by Lord Alfred Churchill, and that on the 15th instant a motion favoring the recognition will be pressed by Mr. W. H. Gregory, member for Galway.

I have the honor to be, sir, your most obedient servant,

G. M. DALLAS.

HON. WILLIAM H. SEWARD,
Secretary of State.

PARLIAMENTARY NOTICES.

HOUSE OF COMMONS, *April 9.*

NOTICES OF MOTIONS.

Lord ALFRED CHURCHILL: To ask the secretary of state for foreign affairs whether it is the intention of her Majesty's government to recognize the Confederate States of America without a guarantee that the flag of that confederation shall not be made subservient to the slave trade, and whether it is the intention of her Majesty's government to invite a conference of the European powers on the subject, so as to prevent the African slave trade being reopened or carried on under the flag of the said confederation.

* Referred to in the following communications:

Mr. Dallas to Mr. Seward, No. 330, April 9, 1861, vol. 1, p. 12.

Mr. Dallas to Mr. Seward, No. 323, May 2, 1861, vol. 1, pp. 33, 30.

Mr. Adams to Mr. Seward, No. 5, June 7, 1861, vol. 1, p. 300.

Mr. Adams to Mr. Seward, June 8, 1861, vol. 1, p. 302.

[From Notice Book.]

EASTER, 1861.

[FOR?] TUESDAY, APRIL 16.

3. Mr. GREGORY, America: To call the attention of her Majesty's government to the expediency of prompt recognition of the southern confederacy, America; and to move for papers relative thereto.

[This motion was afterward deferred from Tuesday, April 30, to Monday, May 13, and again to May 11, and (on May 16) until Friday, June 7, when it was finally withdrawn by the mover.]

[From Notice-Book.]

NOTICES OF MOTIONS FOR FRIDAY, 12TH OF APRIL, 1861.

Mr. GREGORY: On going into committee of supply, to call the attention of the House to the expediency of the prompt recognition of the southern confederacy, America.

Mr. WILLIAM FORSTER: As an amendment to Mr. Gregory's motion relative to the expediency of prompt recognition by her Majesty's government of the southern confederacy, America, to move—

That this house does not at present desire to express any opinion in favor of the recognition of such confederacy, and trusts that her Majesty's government will at no time make such recognition, without obtaining due security against the renewal of the African slave trade.

[From Notice-Book.]

NOTICES GIVEN ON TUESDAY, 16TH APRIL, 1861.

14. Mr. GREGORY: America (southern confederacy)—To call the attention of the house to the expediency of the prompt recognition of the southern confederacy, America; and to move address for copies of papers relating thereto. [Tuesday, 30th April.]

15. Mr. WILLIAM FORSTER: As an amendment to Mr. Gregory's motion relative to the expediency of prompt recognition of the southern confederacy, America, to move—

That this house does not at present desire to express any opinion of the recognition of such confederacy, and trusts that her Majesty's government will at no time make such recognition, without obtaining due security against the renewal of the African slave trade. [Tuesday, 30th April.]

Mr. Dallas to Mr. Seward.

[Extract.]

No. 333.]

LEGATION OF THE UNITED STATES,

London, May 2, 1861.

SIR: * * * * *

You have doubtless noticed that the motion of Mr. Gregory, in the House of Commons, on the recognition of the southern confederation—which motion I mentioned at the conclusion of my No. 330—underwent postponement from the 16th to the 30th ultimo, and has again been deferred a fortnight, for the reasons stated in the extract from the Times newspaper of the 30th April, hereto annexed.

I have the honor to be, sir, your most obedient servant,

G. M. DALLAS.

HON. WILLIAM H. SEWARD,
Secretary of State.

[From the London Times, April 30, 1861.]

AMERICA.

In reply to a question from Mr. W. E. Forster, Mr. Gregory stated that in deference to the expressed opinion of the foreign secretary, who had informed him that a discussion

at the present moment upon the expediency of a prompt recognition of the southern confederation of America would be embarrassing to the public service, and in deference, also, to the wishes of several honorable friends of his, he should postpone for a fortnight the motion which stood in his name for to-morrow night. The noble lord at the head of the Foreign Office believed that the motion might then be brought forward without inconvenience.

NOTICE AND QUESTION CALLING OUT THE PARLIAMENTARY ANNOUNCEMENT OF REBEL BELLIGERENT RECOGNITION, MAY 6, 1861.

The form of Mr. Gregory's notice or motion for May 6th, as given in the printed notice-book of the House of Commons for 1861, stood, at the meeting of the House, as follows :

"To ask the secretary of state for foreign affairs whether any attempt on the part of the government of the United States to levy federal dues off foreign vessels outside the ports of the southern confederacy, before such vessels break bulk, would not be an infringement of international law; and if so, whether instructions will be issued to our cruisers to that effect."

APPENDIX No. II.

PARLIAMENTARY DEBATES PREVIOUS TO AND INCLUDING THAT OF MAY 16, 1861, ANNOUNCING AND IN EXPLANATION OF THE QUEEN'S PRO- CLAMATION OF NEUTRALITY.

[From Hansard's Parliamentary Debates, vol. 162, p. 1378.]

HOUSE OF COMMONS, *Thursday, May 2, 1861.*

SOUTHERN CONFEDERATION LETTERS OF MARQUE—QUESTION.

Mr. J. Ewart said he would beg to ask the secretary of state for foreign affairs whether, seeing the possibility of privateering being permitted and encouraged by the southern confederation of the States of America, her Majesty's government have placed a sufficient naval force—or intend to increase it—in the Gulf of Mexico, with a view to protect British shipping and British property on board of American ships, and if privateers sailing under the flag of an unrecognized power will be dealt with as pirates?

Lord JOHN RUSSELL. Sir, in answer to the first part of the question of the honorable gentleman, I beg to say that her Majesty's government has directed that a naval force, for the protection of British shipping, should be sent to the coast of America. As to the latter part of the question, I will state to the House that the government has from day to day received the most lamentable accounts of the progress of the war in the States of America. Her Majesty's government heard the other day that the Confederate States have issued letters of marque, and to-day we have heard that it is intended there shall be a blockade of all the ports of the southern States. As to the general provisions of the law of nations on these questions, some of the points are so new as well as so important that they have been referred to the law officers of the Crown for their opinion, in order to guide the government in its instructions both to the English minister in America and the commander-in-chief of the naval squadron. Her Majesty's government has felt that it was its duty to use every possible means to avoid taking any part in the lamentable contest now raging in the American States. Nothing but the imperative duty of protecting British interests, in case they should be attacked, justifies the government in at all interfering. We have not been involved in any way in that contest, by any act or giving any advice in the matter, and, for God's sake, let us, if possible, keep out of it.

[From Hansard's Parliamentary Debates, vol. 162, pp. 1564-7, 1570]

HOUSE OF COMMONS, *Monday, May 6, 1861.*

BLOCKADE OF THE PORTS OF THE SOUTHERN CONFEDERACY—QUESTION.

Mr. Gregory said that, in consequence of the news which had arrived from America since he had given notice of his question on this subject, he had been obliged to alter its wording. Mr. Lincoln had proclaimed a blockade of the ports of the seven confederated States, and therefore it was necessary to ask a question with regard to other two States which were in an attitude of hostility toward the United States, although they did not belong to the South. He had to ask the noble lord the foreign secretary: 1st. Whether any attempt of the government of the United States to levy federal dues off foreign vessels outside the ports of North Carolina and Virginia before such vessels break bulk will not be an infringement of international law; and, if so, whether our minister at Washington has received instructions to that effect? 2d. Whether the government of the United States has been informed that a blockade of any port of the southern confederated States, unless effective, will not be recognized? 3d. The government of the United States having refused to relinquish the belligerent right of issuing letters of marque, the seven southern confederated and sovereign States hav-

ing become to the United States a separate and independent and foreign power, whether her Majesty's government recognize the right of the president of the southern confederacy to issue letters of marque; and, if so, whether our minister at Washington has been notified to that effect?

LORD JOHN RUSSELL. Sir, in regard to the honorable gentleman's first question, I have to say that, having consulted the Queen's advocate with respect to federal dues to be levied outside the ports of North Carolina and Virginia, he stated to me that the answer to such a question must depend entirely upon the circumstances of the case, and that it could not at all be declared beforehand whether such an attempt to levy dues would be according or contrary to international law. Of course no instructions on that subject have been sent to her Majesty's minister at Washington; but I am in a position to state that Lord Lyons is of opinion that such an intention would be found impracticable, and would not be likely to be effective. With respect to the honorable gentleman's second question—whether the government of the United States have been informed that a blockade of any port of the southern confederacy, unless it were effective, would not be recognized—I certainly have not felt it necessary to give any instructions to our minister on that subject. It is well known to Lord Lyons, and it certainly has been declared law by the United States, that no blockade could be recognized or deemed valid unless it were an effective blockade; and I have no doubt that there would be no difference between her Majesty's government and the government of the United States on that point. With regard to the honorable member's next question, as to the belligerent right of issuing letters of marque, I must in the first place wait for more explanation, and in the second place reserve part of the answer which I have to give. With respect to belligerent rights in the case of certain portions of a state being in insurrection, there was a precedent which seems applicable to this purpose in the year 1825. The British government at that time allowed the belligerent rights of the provisional government of Greece, and in consequence of that allowance the Turkish government made a remonstrance. I may state the nature of that remonstrance and the reply of Mr. Canning. "The Turkish government complained that the British government allowed to the Greeks a belligerent character, and observed that it appeared to forget that to subjects in rebellion no national character could properly belong." But the British government informed Mr. Stratford Canning that "the character of belligerency was not so much a principle as a fact; that a certain degree of force and consistency acquired by any mass of population engaged in war entitled that population to be treated as a belligerent, and, even if their title were questionable, rendered it the interest, well understood, of all civilized nations so to treat them. For what was the alternative? A power or a community (call it which you will) which was at war with another, and which covered the sea with its cruisers, must either be acknowledged as a belligerent or dealt with as a pirate;" which latter character, as applied to the Greeks, was loudly disclaimed. In a separate dispatch of the same date (12th of October, 1825) Sir Stratford Canning was reminded that when the British government acknowledged the right of either belligerent to visit and detain British merchant vessels having enemy's property on board, and to confiscate such property, it was necessarily implied, as a condition of such acknowledgment, that the detention was for the purpose of bringing the vessels detained before an established court of prize, and that confiscation did not take place until after condemnation by such competent tribunal. The question has been under the consideration of the government. They have consulted the law officers of the Crown. The attorney and solicitor general and the Queen's advocate and the government have come to the opinion that the southern confederacy of America, according to those principles, which seem to them to be just principles, must be treated as a belligerent. But further questions arise out of that question with respect to which we are still in doubt; as, what are the alterations which are to be made in the law of nations in consequence of the declaration of Paris? and those questions, being of a difficult and intricate nature, have not yet been determined upon. They are still under the consideration of the government, and will be still further considered before any declaration is made to other powers.

Mr. Crawford said: Before the House went into committee he wished to put a question to the noble lord the secretary for foreign affairs on the subject referred to by the honorable member for Galway, (Mr. Gregory.) It had been stated in the city that day that several vessels had arrived from the southern ports of the States of America with letters of marque; and inasmuch as a considerable amount of the property of British subjects was carried in American vessels, and inasmuch as the government of the United States had not acknowledged the principle in the treaty agreed to by the European powers at Paris, that neutral goods should not be liable to confiscation by the belligerents, he wished to ask the noble lord whether any representations had been addressed to the American government upon the subject, and whether the noble lord had taken any steps to protect the property of offending British subjects which might be embarked on board the vessels of the United States, and subject to seizure by those vessels of the southern States which carried letters of marque?

[From Hansard's Parliamentary Debates, vol. 162, pp. 1653-4.]

HOUSE OF COMMONS, *Tuesday, May 7, 1861.*

BELLIGERENT RIGHTS AT SEA—QUESTION.

Mr. Walpole said he rose to put a question to the noble lord at the head of the government, and to the honorable member for Liverpool, (Mr. Horsfall,) who has given notice of a motion respecting belligerent rights at sea. He (Mr. Walpole) had understood the noble lord the secretary of state for foreign affairs to state on the previous evening that questions connected with the declaration of Paris were under the consideration of the government, who would officially announce the conclusions at which they arrived as soon as those questions had been determined by them. He would put it to his honorable friend the member for Liverpool whether, in the present very delicate and complicated state of affairs, it would be for the advantage of his motion, or for the benefit of the public interests, that such a discussion should be raised at that moment. If, however, the noble viscount should be of opinion that the motion might come on without disadvantage to the public interests, he (Mr. Walpole) did not at all desire to interpose any objection; but if the noble lord thought otherwise, he trusted his honorable friend would consent to postpone his motion to a more favorable opportunity.

VISCOUNT PALMERSTON. Sir, I entirely concur in the views of my right honorable friend as to the inexpediency of discussing to-night the question which the honorable member for Liverpool intends to bring forward. The house will bear in mind that my noble friend (Lord John Russell) stated last evening that this question of international rights, as connected with belligerent rights at sea, is of a grave and complicated character; that it is under the consideration of the government; and until the government shall be in a condition, after consulting its legal advisers, to make some distinct communication upon the subject, it would be inexpedient, and indeed impossible, for them to enter into any discussion upon the matter. If the honorable member for Liverpool persists in making his motion, I can only say it will be impossible for the government to make any other statement to this house in the present condition of things, but it must remain wholly silent. I think, with submission, that any discussion upon so delicate a matter in the present state of affairs would be prejudicial to the public interests, and I therefore urge the honorable member to postpone his motion to some future period.

Mr. Horsfall said that his own inclination would lead him to proceed with the motion of which he had given notice; but as his own judgment concurred with what had fallen from the noble lord and the right honorable gentleman, (Mr. Walpole,) he felt that, under the circumstances, he had no alternative but to postpone his motion until the views of the government were before the house.

[From Hansard's Parliamentary Debates, vol. 162, p. 1763.]

HOUSE OF COMMONS, *Thursday, May 9, 1861.*

PRIVATEERING—QUESTION.

Mr. W. E. Forster said he wished to ask the secretary of state for the home department whether it is not a criminal offense against the provisions of the foreign enlistment act for any subject of her Majesty to serve on board any privateer licensed by the person assuming, as president of the southern confederacy, to exercise power over a part of the United States, or for any person within her Majesty's dominions to assist in the equipment of such privateer; and if so, whether he will take measures to prevent the infringement of the law, either by her Majesty's subjects or by any agents of the president of the southern confederacy who are now in England; and also whether any such privateer, equipped in a port of her Majesty's dominions, will not be liable to forfeiture.

SIR GEORGE LEWIS. Sir, it is in the contemplation of her Majesty's government to issue a proclamation for the purpose of cautioning all her Majesty's subjects against any interference in the hostilities between the northern and southern States of America. In that proclamation the general effect of the common and statute law on the matter will be stated. The general principle of our law is that no British subject shall enter into the service of any foreign prince or power, or engage in any hostilities that may be carried on between any two foreign states. With respect to the precise effect of the foreign enlistment act in the case supposed, it would not be proper for me to undertake to lay it down, inasmuch as the construction of any statute is matter for judicial decision rather than for any opinion of my own. The general bearing of the law will, however, as I have said, be set forth in the proclamation.

[From Hansard's Parliamentary Debates, vol. 162, pp. 1832-34.]

HOUSE OF LORDS, *Friday, May 10, 1861.*

THE UNITED STATES—THE CIVIL WAR—PRIVATEERING.

THE EARL OF DERBY. My lords, I have given notice to my noble friend the president of the council that I would put a question to him upon a subject of considerable importance and urgency. That question may now, perhaps, be considered comparatively unnecessary, inasmuch as it was raised elsewhere in the course of yesterday, and her Majesty's government gave some intimation of the course they meant to pursue, but the matter is one of so much importance that I hope my noble friend will forgive me if I ask for some explanations with respect to it in your lordships' house. Your lordships are aware that the unfortunate dispute which has existed for some time between the northern and the southern portions of the United States of America has at last resulted in what I am afraid must be considered a civil war. I am not going to ask the noble earl any questions with respect to the manner in which this country may be affected by the possible consequences of that war. I understand the government have already come to the conclusion—of which I do not complain—that both the northern and the southern sections of the United States are entitled to be considered as belligerent powers, and to have our relations with them regulated by the rules which apply to belligerent powers. I understand, further, that the government have under their consideration, and have referred to the law officers of the Crown, several important and delicate questions touching the extent and character of those belligerent rights. Upon that subject, therefore, I do not at present ask for any expression of opinion on the part of the government; but there is one point with respect to which it is highly important they should furnish immediate information. Your lordships are aware that among the measures adopted or threatened by the southern confederation is that of sending forth letters of marque and resorting to the system of privateering for the purpose of attacking the commerce of the northern States. Your lordships are aware, on the other hand, that the northern States have signified their intention to regard the issue of such letters of marque and such privateering as piracy, and to treat them as such. I do not stop to inquire how far this course of proceeding is consistent with the strong declarations made on the part of the United States at the time of the congress of Paris, when the system of privateering was abandoned by the powers of Europe, but when a different resolution was adopted by the United States and they alone of all the important maritime states refused to abandon that system. The point to which I wish to call the attention of your lordships and the government is the position in which British seamen may probably be placed in consequence of the announcements made by the southern and the northern States. If there is one mode of warfare which has more attractions for seamen than another, it is precisely the system of privateering. Privateering is a sort of sea-poaching, and is peculiarly attractive to the more reckless and dissolute class of sailors. It combines many inducements—a certain amount of daring, a certain amount of risk, and considerable chances of profit—inducements which, coupled with drink, apart from any questions of distress or poverty, which I believe does not form an element in more than one case out of a hundred, are precisely those that lead to poaching on land, and are also precisely those that would lure seamen into poaching by sea, or privateering. But unfortunately the maritime game laws are of a rather stringent character, and visit offenders with nothing short of capital punishment. It is, therefore, important to those British seamen who are liable to be attracted by the various inducements of privateering, that they should know upon what footing they stand with respect to their rights as British subjects. I need not say that the offense of entering upon this privateering service is an offense against the foreign enlistment act; but that act does not impose any penalty so severe as that of capital punishment; and if a British seaman who has entered one of the southern privateers should be captured by a northern ship of war and condemned to death—if he is entitled to claim any protection even for his life from his own government—I cannot conceive anything more certain to involve us in most serious and embarrassing complications with the United States, or more likely to render us, almost necessarily, parties in that unhappy contest, from which I cordially join with the noble lord at the head of the Foreign Office in the earnest desire that we may continue to stand aloof. On the other hand, if a British seaman by entering a southern privateer does forfeit his right to claim the protection of his own government—which I apprehend he would do—it should be distinctly and publicly made known to him on the part of the government that if he is led into such a criminal undertaking from any temptation whatever, and if he is thereby exposed to the most serious consequences—even to the loss of his life by judicial sentence—in that case his blood will be on his own head, and he must not expect the slightest interference on the part of this country to save him from consequences, however deplorable, provoked by his own act. I understand that a proclamation is about to be issued by her Majesty's government on the subject of privateering and of belligerent rights.

I hope that in that proclamation, or in some other way, a most distinct and emphatic warning will be given to all seamen in the service of her Majesty, as to the conditions upon which they will engage, if they choose to enter upon such hazardous enterprise—in the system of privateering. There should be no doubt left on their minds, but the fullest and plainest intimation should publicly be made to them, whether, if they do engage in such a service, they will, or will not, in extremity, be entitled to expect any protection or any interference on the part of this country. I hope my noble friend will state to your lordships whether the government have come to any conclusion upon this question; and if so, whether they are prepared forthwith to issue a public and emphatic notification of the course they intend to pursue, and the consequences likely to result to British seamen from a disregard of their warning.

EARL GRANVILLE. The noble earl, by the manner in which he has approached the subject, has evinced a becoming appreciation of the difficulties which may arise to ourselves from the unfortunate state of things in the United States. With respect, however, to the question of the belligerent rights of the parties now engaged in that unhappy contest, the noble earl has not asked for any expression of opinion on the part of the government, and therefore I am absolved from entering into a discussion of that most important, difficult, and delicate subject. But the noble earl has inquired whether it is our intention to issue a proclamation warning the subjects of her Majesty against in any manner departing from that neutrality which her Majesty herself is so desirous to observe. To that question, as the noble earl has stated, an answer has already been given in "another place," namely, that it is the intention of the government, according to precedent, to issue a proclamation giving such warning to all the subjects of her Majesty. The precise wording of the proclamation is a matter of considerable importance and difficulty, requiring some deliberation, and we have thought it right to obtain the best advice in framing it; but I may state that the government are anxious to make it as plain and emphatic as possible.

THE EARL OF DERBY. Perhaps the noble earl will inform your lordships whether, in the event of the northern States acting upon their expressed intention to treat privateering as piracy, and British seamen being sentenced to death, it is to be distinctly understood that such persons will not be entitled to claim protection from their own country.

EARL GRANVILLE. I should prefer not to enter into any detailed explanation until the proclamation shall have been issued. It is plain that the natural result of such a proclamation must be that no British seaman will be entitled to claim the official protection of his government.

Lord Brougham said the noble earl had limited his observations to seamen in her Majesty's service, when it was quite clear that he meant them to apply to any British subject taking part in privateering. Privateering of this description was piracy by the law of nations; any interference in a foreign war, by fitting out, manning, and going on board ships to take part in the war, was a crime by our law, and it was most expedient that those parties who chose to commit the offense in this case should be left to suffer the penalty they incurred. The war in America was a most lamentable affair on all accounts, and for the sake of liberal principles, and for the sake of humanity itself, he fervently trusted that the folly which had given rise to it, possibly not confined to one side, would not be attended with the calamities which always accompanied civil war. If disruption was inevitable, he trusted the new States would form themselves without bloodshed.

The Earl of Hardwicke was anxious that the house should not enter too strong a protest against that which was a natural consequence of war, namely, that vessels should be fitted out by private individuals under letters of marque. That was, no doubt, privateering, but it did not by any means follow that privateering was piracy. He believed that if privateering ships were put in the hands of proper officers, they were not engaged in piracy any more than men-of-war. He thought that a feeble state engaged in a war with a powerful one had a right to make use of its merchant vessels for the purpose of carrying on the contest, and there was no violation of the law of nations in such a proceeding.

[From Hansard's Parliamentary Debates, vol. 162, pp. 2077-2082.*]

HOUSE OF LORDS, *Thursday, May 16, 1861.*

THE UNITED STATES—THE CIVIL WAR—PRIVATEERING.

THE EARL OF ELLENBOROUGH. My lords, I did wish to have given public notice of my intention to put a question to the lord president with respect to the interpretation to be put on some expressions in her Majesty's proclamation, relative to the conduct of her

*Referred to in Mr. Adams's dispatch No. 1, of May 17, 1861. See vol. 1, p. 38.

Majesty's subjects in respect to the war in America. As this house did not sit yesterday, however, I had not the opportunity of doing so; but I hope the noble earl, having had private notice, will be prepared at once to give the explanations I desire. It seems to me to be a matter of essential importance that a proclamation instructing her Majesty's subjects as to the conduct they should pursue in that unhappy war should be clear of all doubt and to the last degree intelligible to every individual; that a man should not be obliged to go to his lawyer for an opinion as to the meaning of the expressions used; and further, that if he should go to his lawyer, the lawyer should have no difficulty in assigning to the words their true interpretation. The warnings given to her Majesty's subjects relate, first, to the law of England, and then to the law of nations. As to the law of England, it is clear enough, there is no doubt at all with respect to the duty imposed on her Majesty's subjects. But as to the law of nations, as might naturally be expected, there is a great deal of doubt. Her Majesty's subjects are warned "not to break any blockade lawfully and effectively established by either of the belligerent powers." Now, the first question I wish to put to the noble earl is, in what sense we are to understand these expressions. We are at present under an obligation to adhere to the declaration on the subject of maritime law agreed to by her Majesty's plenipotentiaries and those of other powers at Paris. That declaration bears directly on the subject of blockades in these words:

"Blockades, in order to be binding must be effective—that is to say, maintained by a force sufficient really to prevent access to the coast of the enemy."

Now, if these words are to be understood in their strictly literal signification, to establish a lawful blockade would be almost physically impossible. They must receive certain qualifications and explanations. I say "impossible" because there is hardly in the whole universe any locality in which ships can remain safely with the power of absolutely preventing access to an enemy's coast. Blockades are carried on by ships at sea. They must be carried on by ships at sea and under sail, because no ships can carry a sufficiency of coal to enable them to act constantly, under steam. No doubt it would be a great facility, if they could always act under steam; that would go far to enable them to make the blockade effectual. I recollect having heard that during the blockade of Toulon the ships employed in that service were on one occasion driven by a storm across the Mediterranean, and, if it had continued a few hours longer, would have been lost on the coast of Africa. Such things—such an event as the blockading ships being driven away by bad weather—will occur again; and, according to the strict and literal meaning of the proclamation, a blockade would then cease to be valid because it had ceased to be effectual to prevent access to the enemy's coasts. But I apprehend the words must be understood with necessary qualifications, arising from the circumstances of wind and weather, which command all such operations; and that the real meaning is to prevent access by establishing such a case of danger to those who attempt to violate the blockade, as to induce them to desist from attempting to do so. But, if that be the real meaning of her Majesty's proclamation, I confess I think it very much to be regretted that instead of adopting totally new words, as they have done in this proclamation, the government did not warn her Majesty's subjects against breaking, or endeavoring to break, a blockade lawfully established and effectively maintained—because it is not enough that a blockade is lawfully established, and unless it be effectively maintained it ceases to be lawful. I wish, then, first to know from the noble earl in what sense we are to understand the words used in this proclamation. Do they intend to convey the exact meaning, with the qualifications I have mentioned of the declaration made by the powers? If they do not, what further meaning do they contain? Do they go below or beyond the words of that declaration? And why should not the particular words there used be adopted on this occasion? I confess, I also very much regret to see so much vagueness in the expressions used as to "contraband of war." The proclamation speaks of "arms, military stores or materials, or any article or articles considered and deemed to be contraband of war according to the law or modern usage of nations." How are plain men to find out what articles have of late been considered contraband of war by the usage of nations? They must look through all the recent decisions of the courts of admiralty jurisdiction, not only in this country but in others; and it is highly probable that they will be found conflicting with one another, and prove no guide to the construction to be placed on the words of the proclamation. I wish, therefore, to know what are the further articles not mentioned to which it is intended that the proclamation should apply, and which her Majesty's subjects are cautioned not to carry upon the sea. The law with respect to contraband of war is in a state of constant change. It must change year after year, according as the manner of conducting war is changed. The time was when bows and arrows and armor would have been considered contraband of war. When I looked into this matter, six years ago, I recollect to have found in the law books of best authority that all these changes were controlled by one prevailing principle—namely, that that is contraband of war which in the possession of an enemy would enable him better to carry on war. That is a clear, reasonable, and intelligible principle, and I very much regret that, instead of using the words which I find in this proclama-

tion, her Majesty's ministers did not go back to a principle which all can understand, and which is not affected by changes in the mode of carrying on war.

EARL GRANVILLE. The questions put by the noble earl are certainly very important. I feel it a somewhat difficult matter to speak upon questions of international law; but, at the same time, it is my duty to give the noble earl all the information I can, and if I should happen to make a mistake, I shall be grateful to learned lords on either side to correct me, in order that no misapprehension may go abroad on a subject of so much importance. With respect to the first question, what meaning is to be attached to the words "a blockade lawfully and actually established?" I apprehend that, although the agreement of Paris is likely to form an epoch in the history of international law, and although it was concurred in by all the nations of Europe and by several American states, yet it does not in itself constitute a change in international law, excepting as regards those powers which signified their acceptance of it. I believe further, even with respect to those countries which entered into that agreement with us, that what took place at Paris made no change as far as blockades, lawfully and actually established, are concerned. That question of international law remains exactly the same as before, with this difference only, that mere paper blockades will not in future be recognized. I believe that the construction of international law that has been adopted is, that before a blockade can be said to be lawfully and actually established, it must be announced in proper form and manner, and the State declaring it must have on the spot such a force as—I do not say to make it impossible, but, at any rate, to make it very difficult for vessels to obtain egress or ingress. The second question which the noble earl has put to me is still more difficult to answer in a clear and satisfactory manner; but I can say, at all events, that the government have followed the course usual on such occasions. To a certain extent the noble earl answered his own question, for he stated that what is contraband of war must vary from time to time according to the character of the war which is carried on. There are certain articles which are clearly contraband of war, but there are certain other articles the character of which can be determined only by the circumstances of the case; as, for instance, the ports for which they are destined, and various other incidents which can be properly determined only when they have been submitted to the judgment of a prize court of admiralty. The decisions of such a court, unless there has been a flagrant violation of international law, all those who have recognized the rights of the belligerents must accept. I think, therefore, that her Majesty's government, in adhering strictly to precedent in this matter, took the only course which it was possible for them to pursue.

THE EARL OF DERBY. My lords, the answer of the noble earl is for the most part entirely satisfactory. I do not feel disposed to complain that the terms of the proclamation are vague and uncertain. It is impossible to introduce into a proclamation of this description such a definition of the character of a blockade, or of contraband of war, as would satisfy the conditions which seemed to be laid down by the noble earl who first addressed the house. Nor do I complain of the proclamation on the ground that the warning it gives goes beyond the necessities of the case. I refer to the warning which is given to British subjects against taking part in privateering expeditions. The proclamation wisely and properly informs the subjects of her Majesty that if they should engage in privateering expeditions they would have no right, whatever might be the result, to claim the protection of this country against any penal consequences to which they might render themselves liable. I do not complain of that—quite the contrary; but there are two points upon which it is absolutely necessary that her Majesty's government should lose no time in coming to a thorough understanding with the government of the United States. The first is with regard to the question of blockade. It has been stated that the northern States, I will still call them the United States, have intimated their intention of blockading the whole of the southern ports. Now, we know perfectly well that it is not in the power of the northern States, if their navy were three times as powerful as it is, effectually to blockade all these ports. There is no doubt they might effectually blockade this, or that, or the other port, and that would be a blockade which we should be bound to recognize, and as to which they would be entitled to all the rights of blockade; but I do think it is very important that her Majesty's government should not commit themselves to the doctrine that the United States are to lay down the principle of a universal blockade, that that universal blockade would be recognized by her Majesty's government, and that all her Majesty's subjects who might choose to disregard it would be liable to penal consequences. I apprehend that to make them so liable the blockade must be one the validity of which has been recognized by their government. It is important, therefore, that her Majesty's government should come to a clear understanding with the government of the United States that a mere paper blockade, or a blockade extending over a space to which it is physically impossible that an effectual blockade can be applied, will not be recognized as valid by the British government. The other point is one of, perhaps, still greater importance. A noble and learned lord (Lord Brougham) was understood to say a few days ago that, by the law of nations, privateering was piracy, and that, consequently, the northern States would be perfectly justified in carrying out their threat to treat

all privateering as piracy, and visiting it with capital punishment. I apprehend that, if there is one thing clearer than another, it is that by the law of nations privateering is not piracy; that no enactment on the part of any one nation can make that piracy as regards the subjects of another country which is not piracy by the law of nations or by the law of that country. The northern States, therefore, must not be allowed to entertain the opinion—although it may be right that we should warn British subjects that if they should engage in privateering expeditions they will not be entitled to claim the protection of their government—that they are at liberty so to strain the law as to convert privateering into piracy, and visit it with death. The punishment under such circumstances of persons entitled to her Majesty's protection would not be viewed with indifference, but would receive the most serious consideration by this country. It is right, on the one hand, that the people of this country should be warned of the peril of engaging in privateering undertakings; but it is essentially necessary, on the other, that the northern States should not be induced to rely on our forbearance if they choose to deny the general interpretation of international law, and attempt to visit privateering with a penalty which is not attached to it by that law. It is said that the northern States treat the southern confederation not as having the rights of belligerents, but as rebels, whose acts will be visited with all the penalties of high treason, including capital punishment. But that is not a doctrine we admit, because we have declared that the southern States are entitled to the rights of belligerents. The northern States, on the one hand, cannot be entitled to claim the rights of belligerents for themselves, and, on the other, to treat the southern States not as belligerents, but as rebels. These are the two points upon which it is most desirable that a clear understanding should be come to between her Majesty's ministers and the government of the United States—first, that we cannot recognize any except a really effective blockade, such as the United States may be able to enforce; and secondly, that we cannot recognize the doctrine that by any proclamation or any enactment the northern States have power as against the southern confederation to treat privateering as piracy, and to visit it with all the penalties that attach to that offense.

Lord Brougham heartily wished that all privateering were piracy by the law of nations; but, unhappily, it was not. His opinion upon this point had been misunderstood. What he said was, that privateering, undertaken by the subjects of one country against the trade of another country with which their own was at peace, amounted to piracy. Privateering, however much it might be reprehended, was, undoubtedly, in the case of recognized belligerents, not piracy according to the law of nations, as that law was at present understood and administered; but if any persons, subjects of this country, fitted out a vessel against another country with which we were at peace, that in itself constituted a piratical act, and he was clearly of opinion that the persons so acting would have only themselves to blame if, after full warning, they entered upon that course. As to contraband of war, the articles coming under that category naturally changed with the advance of military science. Taking into account the great changes and improvements in all the appliances of warfare which had of late years taken place, he should hold that coal might be looked upon as amounting to contraband of war, if furnished to one of the belligerents to be used in warfare against the other. He might add that he entirely concurred in the opinion that it was not necessary that a blockade, in order to be considered effective, should be of such a nature as to render access to any part of the coast impossible, but that it would be sufficient, to constitute it a real blockade, that it precluded the existence of any reasonable chance of entrance.

Lord Chelmsford said he wished to bring the opinion to which his noble and learned friend had given expression to a test. The confederated States of America were admitted by her Majesty's government to be entitled to exercise the rights of a belligerent power. That being so, he should wish to know from his noble and learned friend whether he meant to contend that, if an English ship were commissioned by those States, and fitted out as a privateer against the federal government, her crew would, under such circumstances, be guilty of piracy. That was not the state of the law on the subject, although many people wished that it was. British subjects so engaged would, no doubt, be answerable to the laws of their own country for an infraction of the foreign enlistment act; but it was perfectly clear that, on principles of international law, they would not be liable to be treated as pirates. That warning should be given to English seamen by means of the proclamation was, of course, a most useful and necessary step; and if, after that warning, they would engage in such expeditions as those to which he was referring, they must, of course, take the consequences of their conduct. If, he might add, the southern confederacy had not been recognized by us as a belligerent power, he agreed with his noble and learned friend that any Englishman aiding them by fitting out a privateer against the federal government would be guilty of piracy. The question was one which arose after the abdication of James II, when he had been expelled from Ireland and had not a foot of territory in this country, and when, therefore, he was merely a sovereign claiming a right *de jure*. James II at that time commissioned certain persons to fit out privateers against the commerce of this country,

and the question having come before the lords of the privy council, they desired to have with respect to it the opinion of learned civilians. Several civilians had, in consequence, attended before the council, and a report of the proceedings in the case was given in a very grave and curious way by Dr. Tindal, who was one of its members. According to that report Sir Thomas Pinfold, had asserted that the persons to whom the inquiry related were not pirates, and for the following very strange reason: That a pirate must be regarded as *hostis humani generis*, but that those persons were not enemies to all mankind, and were, therefore, not pirates. Whereupon, the report said, all "smiled." One of the lords of the council asked whether there could ever be such a thing as a pirate if no person could come within that category who was not actually at war with all mankind. To that question it appeared Sir Thomas Pinfold did not reply, but contented himself with repeating what he had said before. One of the lords, therefore, pressed the learned civilian with another question. He said: "Suppose any of their Majesties' subjects, by virtue of a commission from the late King, should, by force, seize the goods of their fellow subjects by land, would they stand excused of being guilty at least of robbery; and, if not, why should they stand excused of piracy?" To that question also the learned civilian made no answer, and for the very good reason, as their lordships would at once perceive, that there was no good answer to be given; for it was perfectly clear the persons supposed would be guilty of piracy. He was, he might add, of opinion that it was manifest that, in the case assumed by his noble and learned friend, piracy could not fairly be said to exist; and, as the point was one upon which it was desirable no misapprehension should prevail, and his noble and learned friend had, he thought, left it in some uncertainty, he had deemed it to be his duty to state the opinion which he held on the subject.

The Lord Chancellor said his noble friend, the president of the council, had laid down the law on the point at issue with perfect correctness. If, after the publishing of the present proclamation, any English subject were to enter into the service of either of the belligerents on the other side of the Atlantic, there could be no doubt that the person so acting would be liable to be punished for a violation of the laws of his own country, and would have no right to claim any interference on the part of his government to shield him from any consequences which might arise. There could, however, at the same time, be no doubt that, although he would be guilty of a breach of the laws of his own country, he ought not to be regarded as a pirate for acting under a commission from a state admitted to be entitled to the exercise of belligerent rights, and carrying on what might be called a *justum bellum*. Anybody dealing with a man under those circumstances as a pirate, and putting him to death, would, he contended, be guilty of murder.

Lord Kingsdown said that there could be no doubt as to the state of the law on the point; that a privateer acting under a commission from a government was not a pirate. No doubt the government of the United States did not put the extravagant proclamation they had issued on the ground that privateers were pirates, inasmuch as America had insisted upon maintaining the right of resorting to that mode of warfare when it had been abandoned by the great powers of Europe. He supposed the order was based on the ground that they were dealing with rebels, and privateers would be hanged not as pirates, but as persons guilty of treason to the state of which they were the subjects. Of course it was a matter for their own consideration what was to be the operation of that proclamation. He believed that the enforcement of that doctrine would be an act of barbarity which would produce an outcry throughout the civilized world; but he hoped it was a mere *brutum fulmen*, and not intended to be carried out. But that being the case with regard to their own country, the case with regard to England was quite different. We had recognized the southern confederacy, not as an independent State, but as a belligerent power; and, therefore, if the federal government should act upon the principle they had laid down as against British subjects, he apprehended that the English government might, with perfect justice, interfere, and under some circumstances they might, by the influence of public opinion, be compelled to interfere. Yet, at the same time, the offender having acted in violation of the laws of his own country, and, after notice issued by the government that they would not extend protection to him, could not, as a matter of right, call upon his government to interfere. That, he apprehended, was the state of the case. He must say he thought it impossible that the government could have framed the proclamation more prudently than they had done with respect to articles contraband of war. The determination of what was contraband must depend upon the circumstances of each particular cargo. Provisions, for instance, though they might be safely sent under other circumstances, yet, if sent to a port where an army of a State at war was in want of food, might become contraband. So with regard to coals. They might be sent for the purpose of manufacture, but if sent to a port where there were war steamers with the view of supplying them, coals, then, became contraband. It was, therefore, quite impossible to frame a proclamation defining what goods were, and what were not, contraband. With respect to blockade, again, although the law remained unaltered, the application of it to practice had been very much altered by the introduction of steam power. A port must be strictly blockaded,

but for the purposes of blockade two or three steam vessels might now be as effective as twenty sailing vessels had been formerly. Many questions of nicety had come before the judicial committee, sitting as a prize court of appeal, during the Crimean war; and he thought this country, now that it was in the situation of a neutral, would have no reason to insist upon any other rules than those which it had acted upon as a belligerent.

Lord Brougham hoped and trusted that all persons would take notice of the warning given in the proclamation that British subjects, if they interfered in the differences prevailing in America, must run the risk of whatever penal measures might be adopted by the Americans, on one side or the other, and at sea or on land. In the case which occurred thirty years ago, two English subjects were tried and hanged for piratical interference on the land, and not on the sea, and not one step was taken to protect or avenge them.

The Earl of Ellenborough said the object of the proclamation was certainly to deter Englishmen from engaging upon either side in the unhappy conflict in America, because they were told that if they violated the law of their own country, and the law of nations, they were not to expect any protection from their own government. He feared, however, that the discussion in their lordships' house that evening might tend to diminish the effect of the proclamation. But he still hoped that Englishmen would not take any part in those hostilities, and he felt sure that, if they did, they would be hanged long before diplomacy could interfere on their behalf.

APPENDIX No. III.

DEBATE IN THE HOUSE OF COMMONS ON BELLIGERENT RIGHTS UNDER THE QUEEN'S PROCLAMATION.*

[From Hansard's Parliamentary Debates, vol. 163, pp. 471-473.]

HOUSE OF COMMONS, *Monday, June 3, 1861.*

UNITED STATES—THE CIVIL WAR—PRIVATEERING—QUESTION.

Mr. W. E. Forster said he would beg to ask the secretary of state for foreign affairs whether her Majesty's government will exercise the discretion which, by the law of nations, they possess to prevent privateers sailing under the as yet unrecognized flag of the so-called southern confederacy from bringing their prizes into any port of her Majesty's dominions? He did not ask this question with regard to privateers sailing under the flag of the United States, simply because he had no expectation that any letters of marque would be issued by the United States government.

LORD JOHN RUSSELL. Sir, my answer must be rather wider in extent than the question which the honorable member has put to me. The whole matter has been considered by her Majesty's government, and it has been determined, after consulting the law officers of the Crown, that orders should be given to interdict the ships of war and privateers of both parties from entering the ports and harbors of the United Kingdom, or of the colonies and dependencies of her Majesty, with prizes. In order to make the matter more clear, the house will perhaps allow me to read an extract from the dispatch which has been sent to the India Office and to the governors of the colonies:

"Her Majesty's government are, as you are aware, desirous of observing the strictest neutrality in the contest between the United States and the so-styled Confederate States of North America. With a view more thoroughly to carry out that principle we purpose to interdict the armed ships, and also the privateers, of both parties from carrying prizes made by them into the ports, harbors, roadsteads, or waters of the United Kingdom or any of her Majesty's colonies or possessions abroad."

The orders went out to the colonies on Saturday last, and they have gone to India to-day. I may also state that we have during the past week been in communication with the French government upon this subject. I stated to the French ambassador the view taken by her Majesty's government, and asked him what course the government of France intended to pursue with regard to this subject. The French ambassador has informed me that the French government propose to act in conformity with the existing law of France. That existing law is founded upon an ordinance passed in the year 1681; and the rule is that, in case of a war in which France is neutral, no privateers are allowed to bring their prizes into the ports or harbors of France or its dependencies for a longer period than twenty-four hours. They are not allowed to sell the cargoes, or in any way to dispose of the prizes which they have taken; and after the twenty-four hours have expired they are obliged to leave the port. Therefore the course pursued by France is not very different from that which we intend to adopt.

Sir John Pakington said he wished to put a question to the noble lord the secretary of state for foreign affairs in reference to a statement which he saw in the newspapers of the day. It was said that the government of the United States had expressed their intention of recognizing the declaration in reference to privateering made at the period of the adoption of the treaty of Paris, in 1856. He wished, therefore, to ask the noble lord whether her Majesty's government have received any intimation to that effect from the government of the United States; and, if so, whether he can state what effect it will have on the policy which her Majesty's government have announced with regard to the belligerent rights of the southern States?

LORD JOHN RUSSELL. Sir, the only answer which I can give to the right honorable gentleman is, that propositions have been sent to America founded upon the declaration of the treaty of Paris. Those propositions were made in concert with the French government, and are restricted in concert with that government. We have not as yet

*Transmitted with dispatch No. 5 from Mr. Adams to Mr. Seward, dated June 7, 1861. See vol. 1, p. 390.

received any answer to those propositions; they have been gone, I should think, a fortnight, and I expect soon to receive some reply to them. Until that answer is received I cannot pledge the government as to the course which they will pursue.

Mr. Liddell said he wished to ask the noble lord whether the course now proposed to be adopted, of prohibiting the vessels of war and privateers of both parties from bringing prizes into the ports of the United Kingdom, was not different from that which had in former times been pursued by this country?

Mr. Henley said he wished to know whether the law of France, as stated by the noble lord, applies to the vessels of States or is confined to privateers?

LORD JOHN RUSSELL. I stated that the law is applicable to privateers only.

Sir James Elphinstone said he asked what measures have been taken by the government to inform British seamen who are at present at sea that it is their policy to observe a strict neutrality between the parties to this contest, unless a notice was affixed to the mainmast of every British trader—[Order, order!]

Mr. Speaker said he must inform the honorable baronet that he was not in order in entering into an argument.

LORD JOHN RUSSELL. A proclamation has been issued by her Majesty declaring her neutrality in this contest, and of that proclamation, which has appeared in the Gazette and in all the newspapers, the crews of vessels calling at ports would receive intelligence.

MR. E. P. BOUVIERE. Will the noble lord lay upon the table a copy of the dispatch from which he has read an extract?

LORD JOHN RUSSELL. Yes, in a day or two.

APPENDIX No. IV.

DEBATE IN THE HOUSE OF LORDS ON THE SUBJECT OF MEDIATION OR INTERVENTION IN THE CIVIL WAR IN THE UNITED STATES AND THE RECOGNITION OF THE SOUTH- ERN CONFEDERACY.*

[From Hansard's Parliamentary Debates, vol. 169, pp. 1714-17 and 1734-41.]

HOUSE OF LORDS, *Monday, March 23, 1863.*

UNITED STATES—THE SOUTHERN CONFEDERACY.

Lord Campbell, in rising to call attention to the question of acknowledging the southern confederacy as an independent power, in concert with other neutral States, and to the dispatches of Mr. Mason, the southern envoy, on the subject, said: My lords, although I know that no apology is requisite for calling the attention of the House to the papers for which I moved in August last, and which have lately been presented, I am anxious and impatient to point out the exact view with which the motion is submitted to you. It is not in order to raise a question on the course which government have taken as regards American affairs during the autumn. The question I propose is wholly seated in the future. The facts which lead to it are known and easy to recall to you. During the whole of the last session France and Great Britain were alleged, and were believed, to act together on the difficulties which the civil war gave rise to. Since then they have diverged, or rather, in the memorable phrase of a noble friend now absent from his place, (Lord Clarendon,) although their objects are the same, have seemed to drift from one another. In November we restrained the French government in a course which they desired to take. In January the Emperor, by himself, pursued a second line of action, meant, like the first, to terminate hostilities. That line of action having failed, all thoughts of intervention, mediation, and remonstrance being exploded by the insolent reply of Mr. Seward, the Emperor being anxious still to close the war, as he has proved himself, and having paid to the government of Washington every debt of justice and of courtesy, the question of recognizing the insurgents may at any moment come before us, as the question of attempting to obtain an armistice was urged upon the country in November. Were it not that for some weeks past Poland has engaged the world, before now it might have reached us. As things stand, it would find us in the worst condition to receive it, without conviction one way or the other, in either party of the State, by the avowal of their leaders. A fatal error might arise, not from a mistaken but a hesitating judgment. It is at such a moment, if ever, that parliamentary debate is useful and admissible—when, of two opposite opinions on a question rapidly impending, neither can be said to prevail over the other, and no man on earth foresees by which our conduct will be guided. It is, therefore, to contribute to a practical result that I have given noble lords the opportunity of speaking on America; and it could not have been done in any other form, because a resolution or address to pledge the action of the government would have justly been resisted, and its withdrawal or defeat would prejudice the eight millions of men whose claims are now before you. The opinion I am anxious to maintain is that the divergence of France and Great Britain on America ought not to go further, but to cease; and that when France invites us to acknowledge southern independence, we should neither hold her back nor let her move alone, but, on the contrary, act with her. And by acknowledgment, I mean the course of sending an ambassador to the insurgent, or of receiving his ambassador, or of engaging in a treaty with him, or of seeking *exequaturs* from him for the consuls in his territory. The first impression I should wish to combat very briefly is, that the acknowledgment by neutral States of southern independence would have no practical effects and no important consequences. It seemed to be that of a noble earl over the way, who lately held the foreign seals, at the beginning of the session. But if acknowledgment is wholly immaterial, why has the South continued, to demand, and

* Referred to in the following communications: Mr. Adams to Mr. Seward. No. 355, March 26, 1863, vol. 1, p. 202; Mr. Adams to Mr. Seward, No. 356, March 27, 1863, vol. 3, p. 124.

the North so long and pertinaciously endeavored to avert, it? Why are southern envoys now in London and in Paris; and why was the government of Washington prepared at every cost, but that of war, to intercept them? Why have the envoys, on arriving, made acknowledgment the single object of their mission; and why has Mr. Seward sent to the different powers a volume of dispatches to resist it? It has reached me from credible authorities that last year the planters began to grow cotton when acknowledgment was looked for, and ploughed it in when the hopes expired. It happened in this manner: The planters viewed acknowledgment as the road to peace, and were ready to invest their capital in the ordinary way when that road was likely to be opened. And it may well occur to them as having such a tendency. From the northern mind it would take away the hope which lingers yet of southern subjugation. From the government of Washington it would take away the power of describing eleven communities contending for their liberty as rebels. The people of America are influenced by phrases, and will not come to terms with what they have been hounded on to look at as rebellion. But they can see a fact when Europe blazons it before them, and they may be awakened by her judgment to the nature of the foreign war on which their treasure and their happiness are wasted. When Europe has acknowledged it, the independence of the South may be debated in the Senate and the House, where no one now can venture to advert to it. A probable result of such a measure, if pursued by France, Great Britain, and other neutral States together, is, that it would weaken, in the executive at Washington, its borrowing ability, because their loans are founded on the chances of reconquest; and reconquest would then appear what it is, a shadow and a dream. And it would do so with good reason. Victorious already, animated then, the southern armies would be doubly irresistible. They would not have, if they retain it now, the power to be vanquished. Another practical effect of recognition—the belligerents might then endeavor to negotiate, which it is clear they cannot do at present. A separate result would be to put an end to all the idle views of reconstruction and of union which are floating in America, and which serve to prolong the war, because they disincline the North to the only basis upon which the close of it is possible. A yet more serious result the measure promises is freedom to the government of Washington from the necessity of hopeless war which weighs on it at present. As soon as Europe sanctions its retreat, the greater portion of its evils are annihilated. As long as Europe sanctions its attempt, to renounce it is to suffer an indignity which never fell upon a State engaged in war with insurrection since modern history opened its varied scenes to our notice. Noble lords who recollect how, after it had lasted forty years, the civil war between Spain and Holland was influenced in 1697–9 by the diplomacy of France and England, may be led to think in what form the present struggle might adjust itself. But they will also see that the efforts of the two powers would have been as vain as they were brilliant and successful unless Europe had before acknowledged the insurgent. I will not dwell upon the instance. It must engage the study of every minister or sovereign who aspires to the lofty task of closing the hostilities before us. And if I, wanting power to go on, should do nothing more than point to it to-night, the motion might not be a useless one.

EARL RUSSELL. My lords, I suppose there is no member of either house of Parliament who does not wish for the termination of the civil war in America. It disturbs commerce, it puts to hazard the peace of the world, and it afflicts America herself; and if anything could be usefully, and, I must add, justly done to bring that war to a termination, I repeat, there is no member of either house of Parliament, and no person in the country, who would not gladly see such a consummation. But after having listened to my noble friend, I must confess I remain in the same persuasion as before at the present moment, and I speak only of the present moment, that there is nothing that this country could do usefully and wisely which would tend to the termination of hostilities on the other side of the Atlantic. My noble friend has somewhat mixed different topics, and he has alluded to three different modes of intervention of states in the affairs of other countries. One—which is the minimum of interference—that of advice, good offices, and mediation; another, the mode proposed by my noble friend to-night, that of recognition; and the third, one which we have sometimes resorted to, and which other nations have more frequently had recourse to, that of forcible intervention. My noble friend says, and says truly, that since I had the honor of addressing the House last summer, there has been some divergence between the views on this subject of the government of this country and that of the Emperor of the French. The government of the Emperor of the French conceives that it might tend to the termination of the war if three powers—France, Great Britain, and Russia—were to propose a suspension of hostilities with a view of negotiation between the two belligerents. Her Majesty's government, after carefully examining that proposition, came to the conclusion that its adoption by us would not be likely to lead to its acceptance by the government of the United States of America; while if that should be the case, by causing irritation, it would not increase but diminish the chances of our seeing a termination of the contest. The French government has since proceeded in accordance with its views, and has actually proposed to the government of the United States to

negotiate with the southern States. That proposition has not been adopted; and I think your lordships will judge, from what has happened with reference to the proposals of France, and with reference to suggestions thrown out in other countries, that this policy of good office and mediation is not at the present moment likely to tend to promote peace, but rather to provoke measures of opposition; and thus the reproach would be cast upon this country that we had aggravated the evils of the present lamentable state of affairs in America. It does not appear at the present moment that this contest would be likely to be terminated by an offer of our good offices. I say at the present moment, because it is impossible to say that, in the course of events, a time may not come when both the contending parties would be desirous of the good offices or wise counsels of friendly powers. I do not see any probability of that at this moment, but I wish to guard myself against being supposed to speak positively of the future. We come, then, to the course proposed by my noble friend, namely, that of recognition. My noble friend alluded to several cases, not very happy illustrations of his argument, I think, in which the United States of America have recognized insurgent countries which they believed likely to be able to maintain their independence. One was the revolted state of Hungary, whose independence had ceased to appear—it had sunk like the island in the Mediterranean—had disappeared before the dispatch reached Vienna by which the United States recognized it. Another instance referred to by my noble friend scarcely comes within the category of recognition, although it has been quoted by a gentleman who has written some very able letters under the title of "Historicus"—I mean the recognition of the United States themselves, by France, two years after the war with this country, in 1773, had begun. If any one will examine that precedent and the important documents which have lately come to light, he will see that the French monarchy of the day had for some years, most unfortunately for itself, been exciting democratic passions in America, and had been endeavoring to raise opposition there to the government of Great Britain. It had prepared means of concert with these States; and even in the letter, so courteous in appearance but so exceedingly hostile and bitter in its spirit, written by the French ambassador at the court of St. James, it was stated that the French government had not only made a treaty of commerce with the United States, which they had already recognized, but further, that they had a right to carry that treaty into effect, if necessary, even by force. This was a threat to take part in the war between Great Britain and her revolted colonies. But we know that, besides this open threat, there was a secret treaty signed, by which France pledged herself to lend her support to the revolted provinces; and the government and the opposition of this country, which was then as decided as ever any opposition was, agreed that the threat was one of war, and that by war only could it be met. This, therefore, was not a case of recognition, but a case of interference. It was, I think, a most unjustifiable interference—an interference for the purpose of spreading those democratic principles which afterward reacted on France and produced so many excesses and crimes during the revolution. Well, then, with regard to the other cases to which my noble friend has alluded, those of Portugal and Holland were cases of forcible intervention. There is hardly more than one case in which the question was limited to single recognition, that was the war carried on between Spain and her revolted colonies, which went on from 1808 to 1822 or 1823 without any proposal for a recognition. This case is one worthy of the attention of your lordships because it was illustrated by the mild wisdom of Lord Lansdowne, by the profound research of Sir James Mackintosh, and by the dazzling genius of Canning. We have, therefore, upon this question of recognition as much light as can possibly be thrown upon any subject. Now I beg to refer your lordships to the words of Lord Lansdowne. He was zealous for the recognition of the South American provinces; he thought it would be a great advantage to this country to recognize them, and he was entirely free from any trammels of office, or any obligation to consult the interests of the minister of the day. But with that wisdom and forbearance which characterized every act of his public life, he stated, "the first point to consider is whether you have the right;" and he went on thus:

"It will be my duty this night to point out to your lordships the great advantages which may result from the establishment of South American independence. I hope I shall never stand up in this house to recommend your lordships to adopt any course of policy inconsistent with those principles of right which are paramount to all expediency, and which compose that great law of nations, any departure from which, to answer a selfish and ambitious policy, never fails to recoil upon its authors." [2 *Hansard*, Ex. 973.]

These are words upon which this House may well reflect; and we may well consider upon what grounds Lord Lansdowne founded the views which I have just brought under the notice of your lordships. In the first place, he stated it was necessary that a country which required to be recognized should have established its independence; in the next place, that it should be able to maintain that independence for the future; and lastly, that it should be able to carry on with all foreign nations those relations of peace and amity which form the general international law of the world. Now examine the state of the revolted provinces of Spain at that time, as Sir James Mackintosh and

Mr. Canning did. We find that the greater part of South America had been some twelve or fourteen years entirely free from the presence of Spanish armies. We find that with regard to those provinces in which that was not absolutely the case—namely, Mexico, where Vera Cruz alone was occupied by a Spanish garrison, and Peru, where there were 4,000 or 5,000 Spanish troops, although the cause of Spain seemed hopeless—it was agreed that their recognition should be deferred; and that only in the case of Buenos Ayres, and those parts of South America which had clearly and for a number of years established their independence, would it be right for Great Britain to proceed to the step of recognition. Besides this, Mr. Canning took care to inform the Spanish minister that such recognition would not be very long delayed; that if the Spanish government wished to recognize them, they ought to take that step, and that Great Britain was willing to give time before proceeding to recognize them herself. Well, here is a great precedent for our consideration; here is a step taken by the government of the day after considerable care and examination; here is a course recommended by the opposition of the day—not in any harsh spirit, but notwithstanding the conviction which this country generally entertained that the cause of Spain was hopeless and that the independence of those provinces was firmly established. Well, now, if we look to the present position of North America and compare it with that of the States of which Lord Lansdowne spoke, we find that the war in North America is still carried on with the utmost vigor—I had almost said with the utmost fury. We find some of those provinces which were the first to proclaim their independence, a great part of Louisiana, New Orleans, and the banks of the Mississippi, occupied by the federal armies. There are very considerable federal armies menacing cities of the confederation, such as Charleston and Savannah, so that no man can say it is a case of hopeless war. For my own part, and speaking according to my limited vision, I do not believe those efforts of the federals will be successful. No man can say that the North will subdue the South; but no man can say that the war is finally over, or that the independence of the southern States is established. Well, then, what is the present state of the case? Although great efforts have been made in vain, the great federal republic seems unwilling to accept the decision of events. So far from it, we find the last acts of the Congress which has just expired are to place, by conscription, every man fit to carry arms at the disposal of the President of the United States, and to vote sums of money amounting to no less than £180,000,000 sterling, for the purpose of carrying on the war. Then, in this state of affairs I should say that, looking to the question of right, it would not be a friendly act toward the United States, it would not be to fulfill our obligations to a country with which we have long maintained relations of peace and amity—a great country, which says it can still carry on the war—it would, I say, be a failure of friendship on our part, if at this moment we were to interpose and recognize the southern States. I have endeavored to guard myself by saying that I speak now with reference to the present aspect of affairs. I hardly know any moment in which my noble friend could have brought forward his motion with less encouragement from events. It may turn out that these immense efforts which are being made by the federal government shall be made in vain; that the spirit of the South is unconquerable, as their determination never to be united again with the northern States is final and irrevocable; and that a time may come when the duty of this country will be totally different from what it is at the present moment. All that may be the case; all I maintain is, that it is our duty at present to stand still, and not to proceed to an act so definite, so positive, an act so unfriendly to the United States, as the recognition of the South. My noble friend spoke of various topics—of danger of Canada being attacked by the northern republic, and of the West Indies being attacked by the southern. My lords, I cannot follow my noble friend into these suppositions; I do not venture to say what may be the future course of events; I confine myself to that which I think to be our duty now, which I think is right, and if that be so, we must be content in future days to meet with future dangers; and it will not enfeeble our arms if we have it in our power to reflect that we have never failed in our obligations to those which have been great States in peace and amity with us, and that it has not been through any fault of ours that a great affliction has fallen on them. Well, my lords, I know not that there is anything in what my noble friend has said to-night which would make it necessary for me to go much further into this question; but at the same time there were allusions in parts of his speech to former occasions and former instances of interference on our part, as if my noble friend, and some of those who looked forward to his motion to-night, expected that there should be some interference on our part in this war. Now, my lords, I wish to say only a few words upon that which we have done in former days by way of intervention. We, too, like other States, though not so often as some, have at times taken upon us to intervene. We interfered in the case of Holland to save her from the religious tyranny and political despotism of Philip II. That contest was hallowed by the blood of Sir Philip Sydney, and by the part we took we contributed to her independence. In another case—the case of Portugal—we interfered. Charles I, Cromwell, and Charles II all agreed in that interference. We declared ourselves ready to send 10,000 men to the aid of the new government of

Portugal, and we helped the Portuguese to relieve themselves from the Spanish tyranny under which they groaned, and to establish the independence of their State. In more recent times, when Greece endeavored to establish her independence, we aided her in her contest with Turkey; we rescued her from the destruction which threatened her, and helped her to found a free and independent monarchy. Take the case of Belgium again: when the Belgians declared that they were unable to remain under the government of Holland, in accordance with the treaty of Vienna we interfered by force, in conjunction with France; and the wise and happy arrangement was made by which the freedom of Belgium was secured. Now, my lords, in all these instances, whether the intervention was carried on by our ancestors, or in our own times, there is nothing of which an Englishman need be ashamed. If we have taken part in intervention, it has been in behalf of the independence, freedom, and welfare of a great portion of mankind. I should be sorry, indeed, if there should be any intervention on the part of this country which could bear another character. I trust that this will not be the case, and that no interests, deeply as they may affect us—interests which imply the well-being of a great portion of our people, but interests which may affect also the freedom and happiness of other parts of the globe—will induce us to set an example different from that of our ancestors; but that when we feel ourselves bound to interfere—and may it be seldom—it will be an interference in the cause of liberty and to promote the freedom of mankind, as we have hitherto done in these cases. It is with this conviction that I have addressed these few remarks as to what has been done by this country in former days; and I trust that, with regard to this civil war in America, we may be able to continue our impartial and neutral course. Depend upon it, my lords, that if that war is to cease, it is far better it should cease by a conviction, both on the part of the North and the South, that they can never live again happily as one community and one republic, than that the termination of hostilities should be brought about by the advice, the mediation, or the interference of any European power. I repeat I have spoken only of the duty of the government at the present time, and I trust that there will be now no further debate on this subject.

APPENDIX No. V.

DEBATE IN THE HOUSE OF COMMONS RELATIVE TO BELLIGERENT RIGHTS OF THE SOUTHERN CONFEDERACY,* AND THE CASE OF THE PAMPERO.

[From Hansard's Parliamentary Debates, vol. 173, pp. 1544.]

HOUSE OF COMMONS, *Monday, March 7, 1864.*

UNITED STATES—CONFEDERATE CRUISERS.—QUESTION.

Mr. R. Long said he would beg to ask whether a ship belonging to the confederate navy would have the same right to search and make prize of an English vessel carrying contraband of war to a federal port, that a federal war vessel would exercise in the case of a British ship carrying contraband of war to a confederate port; and if not, whether such partiality in favor of one of two belligerent powers is reconcilable with the "strict neutrality" professed by her Majesty's government?

The Attorney General, in replying, said, there could be no doubt whatever that a confederate vessel would have exactly the same right to visit, search, and capture a British vessel carrying contraband of war to a federal port, as a federal vessel would to act in like manner to a British vessel carrying contraband to a confederate port; but it should always be remembered that neither federal nor confederate was entitled to make any such capture except for the purpose of taking such ship for adjudication before a competent prize court.

THE PAMPERO.—QUESTION.

Mr. Dalglish said, he wished to ask the under-secretary of state for foreign affairs, whether the government are prepared to accept from the owners of the Pampero, and other steamers seized by the government, on the plea that these vessels are intended for the Confederate States of America, a similar assurance to that which the government have declared themselves satisfied with when given by the Danish ambassador; since the ship has been before the customs she has been offered to her Majesty's government for sale.

Mr. LAYARD. I think, sir, the House will see that the cases are not at all similar. In the one case, the Danish minister, before hostilities commenced, wishing to spare her Majesty's government all the embarrassment possible, came forward and gave the fullest information that a vessel was being constructed for the Danish government. In the other case, every kind of subterfuge, not to use a stronger word, was used, and every means for evading the law was had recourse to, and as a last resource the parties concerned wished the government to enter into a similar arrangement to that which they had entered into with the Danish minister, but her Majesty's government declined. In the case of the Danish minister, he gave his diplomatic guarantee, upon which her Majesty's government placed the fullest reliance; but in the other case, I doubt whether any guarantee could be given upon which her Majesty's government could place reliance.

* Transmitted with dispatch No. 611, from Mr. Adams to Mr. Seward, March 10, 1864. See vol. 1, p. 357.



APPENDIX No. VI.

DEBATES IN THE HOUSE OF LORDS AND THE HOUSE OF COMMONS CONCERNING THE WITHDRAWAL OF THE RECOGNITION OF BELLIGERENT RIGHTS TO THE SOUTHERN CONFEDERACY.*

[From Hansard's Parliamentary Debates, vol. 179, pp. 286-291.]

HOUSE OF LORDS, *Monday, May 15, 1865.*

BELLIGERENT RIGHTS—QUESTION.

Lord HOUGHTON said that it was now just four years since the government, by order in council, recognized as belligerents the so-called Confederate States of America, and he now rose for the purpose of asking the noble lord the secretary for foreign affairs the question of which he had given notice, namely: Whether it is the intention of her Majesty's government, after the events which have lately occurred in the United States of North America, to withdraw the admission of belligerent rights conceded to the so-called Confederate States? It would seem that such withdrawal would necessarily follow from the conclusion of the calamitous war in America; but he was bound to add that he was afraid that they could not technically say that the war in America was at an end, for he held in his hand an important opinion of the Attorney General of the United States, given about three weeks ago, to the effect that the capitulation between General Grant and General Lee determined that the southern States were still to be regarded as belligerent; and the Supreme Court of the United States had lately pronounced an opinion to the same effect. Under these circumstances, if the war was one entirely carried on by land, it would be difficult for England to withdraw the recognition of the southern States as belligerents; but he was now regarding the matter as one affecting this country as a naval power solely. It was only as a naval power that we had occasion to act at all in the matter. He inferred that the concession of belligerent rights to the South by this country was supposed to follow necessarily from the blockade of the South by the North; because when a government wished to prevent the ships of a neutral power from approaching its ports, and at the same time did not wish that any belligerent rights should grow out of that act, it simply closed its ports and did not establish a blockade. It appeared to him that though this blockade had not been formally raised, yet, those ports having been closed by the supreme authority of the United States, that authority reasserted its full power there. It was the question of the ports and of the sea which had led us to consider the question of the belligerent rights, and therefore he should be glad if the foreign secretary were able to say that, now the ports were closed by supreme authority, the government of the United States having recovered its power over that territory, and now that we might entertain a hope of peace, there would be no difficulty whatever in cancelling the order in council by which the so-called Confederate States were declared belligerents.

Earl RUSSELL. My lords, I very much regret two circumstances connected with this question; the one being the terms in which my noble friend has placed his question upon the table of the house, and the other the particular time at which he has thought fit to ask it. With regard to the first, my noble friend asks "whether it is the intention of the government, after the events which have lately occurred in the United States of North America, to withdraw the admission of belligerent rights conceded to the so-called Confederate States." Now, it was not a question of concession at all. It was a simple question of fact. If peace exists throughout the United States of America the government of the United States will, by treaty and by the natural effect of the law of nations, allow our merchant ships to go into their ports and there trade. If, on the contrary, a state of war exists, in that case they will blockade the ports and exercise belligerent rights. Now, what were the facts here? When a war is going on between two separate nations, as a few years ago was the case between Austria on the one hand and France and Italy on the other, both the belligerents assert belligerent rights, and her Majesty properly issues thereupon a proclamation of neutrality. But, instead of a war, there may be an insurrection. That is always a matter of more doubt. That insurrection

* Transmitted with dispatch No. 960, from Mr. Adams to Mr. Hunter, May 18, 1865. See vol. 1, p. 383.

may be a trivial one, and carried on entirely in the interior of the country; or it may be of such vast extent as to amount really to a war. Now that question might have been a difficult one for us to decide; but the United States government really decided it when the President of the United States, on the 19th of April, 1861, issued a proclamation by which he declared that all the ports of seven States of the Union should be blockaded, and thereby put the United States in possession of belligerent rights. When the President of the United States did that he left her Majesty's government but two courses to pursue: either to acknowledge the blockade, and thus to acknowledge a state of war, or to decide that the blockade should not be acknowledged, and that her Majesty's government would not concede belligerent rights to the United States, which would have of course led to war between this country and the United States. The first was the course pursued; but in pursuing that course it was impossible we should say that there was war, and yet that there was no power with which war was carried on by the United States. There cannot be a war which is carried on by one party only. In point of fact, as we all know, there was a war between a body of persons calling themselves the Confederate States of America on the one hand, and the President of the United States on the other. From the moment, then, that we acknowledged this blockade of southern ports by the President of the United States, it was not we who conceded belligerent rights; it was the President of the United States, who declared himself in possession of belligerent rights, who declared himself possessed of the right to carry on war, which is only the English for belligerent rights, and thereby obliged us to come to a decision one way or the other. Had it been otherwise, the President of the United States could not have ordered the navy of the United States to stop ships of this country on the high seas. No power has contended more strenuously than the United States that there can be no right of search extending over vessels on the high seas in time of peace. But that is the power which the United States have exercised, that is the right which her Majesty acknowledged. Her Majesty did not concede belligerent rights, but recognized the state of facts which the President of the United States himself declared, and followed this by a proclamation of neutrality in the war which was then being carried on. That war, as my noble friend stated, has been carried on during four years. And I now come to my second objection to the question of my noble friend, namely, that he has asked it at a most unfortunate time, because it is very difficult to say exactly what the state of affairs is at the present moment. My noble friend himself evidently does not know the state of facts, because he says that, instead of blockading the ports, the President of the United States has closed the ports. The opinion of her Majesty's law officers is, that the government of the United States may lawfully close the ports which are in possession of the United States authorities, and that within the waters of the United States, within three miles of the shore, they may forbid any neutral merchantman from entering those ports. But the authority of the United States does not extend to the port of Galveston—the whole of Texas had been for some time in the possession of the confederates. So far as we know, by the latest accounts we have received, the port of Galveston is still in the possession of the confederates. With regard, therefore, to that port, the power exercised by the United States must be the power of blockade, and not the power of closing the ports. Then comes the other question, namely, whether the United States still continue to maintain the right of search over the merchant vessels of neutral powers upon the high seas. The United States authorities, during the last four years, have exercised belligerent rights in that respect, and have exercised them with very great severity. I do not know any case in which the right of search, of capture of vessels, and imprisonment of crews has been exercised with greater severity by a belligerent than it has been exercised by the United States—perhaps not with as great severity. As to the question of what we are about to do, and whether this belligerent right on the part of the United States is to continue or not, it will be impossible for her Majesty to consent that vessels belonging to British subjects, and bearing the British flag, should be searched upon the high seas, and at the same time we should admit that no war is going on. It is impossible that we should allow the United States to exercise a belligerent right and at the same time allow that a state of complete peace exists, and that everything else is to go on as usual with regard to the United States. My noble friend knows that one of the earliest international text-books is a work *De Jure Belli et Pacis*. There is the *jus belli*, and there is also the *jus pacis*. They are two distinct things, and you cannot have both existing together. We are anxious to ascertain, and we have asked the government of the United States, what is the present state of the case. A little while ago the United States government—perhaps with a view to the withdrawal of belligerent rights to the confederates—proposed that federal ships of war should be allowed to enter her Majesty's ports without restriction. We have answered that, with regard to the requisition that a vessel of war should leave her Majesty's ports either in the colonies or the United Kingdom within twenty-four hours, it was not necessary to keep up that restriction; but, before anything further was determined with regard to confederate vessels of war, we wished to know whether the United States intend to maintain and exercise their belligerent rights, or whether they give up altogether the right of searching and examining, of detaining and capturing,

British merchant vessels on the high seas. Until that question is answered I do not feel competent to give any answer to my noble friend. We must first ascertain whether the United States is at war with any power whatever. Let them retain the belligerent right if war continues; but if there is no war, and if peace exists, let them abandon that right. When I obtain an answer on this point from the government of the United States I shall probably think it necessary to apply again to the law officers of the Crown; but meanwhile I do not know that I can give any better answer than has been given by the Spanish government to the United States. The Spanish government was asked by the United States to cease to allow belligerent rights to the confederates, and their answer was that these belligerent rights were consequent upon the existing state of facts; that while war continued the powers of Europe generally had agreed to acknowledge the belligerent rights of both parties, but that when the war ceased those rights would cease of themselves, and that it was not necessary to give any further answer. This is my reply to my noble friend. I cannot give him any further answer for the present. We have reason to rejoice, and I do most sincerely rejoice, at the prospect of the termination of the war that has so long been going on, and I trust that we shall soon see the United States again in the enjoyment of peace and of the blessings that flow from it.

Lord HOUGHTON. Am I to understand that if by some act of the United States the war is declared to be at an end the concession of belligerent rights to the so-called Confederate States will fall to the ground without any formal act of her Majesty's government?

Earl RUSSELL. All I can say is this: that when the case arises her Majesty's government will take the opinion of the law officers of the Crown upon it.

[From Hansard's Parliamentary Debates, vol. 179, pp. 296-297.]

HOUSE OF COMMONS, *Monday, May 15, 1865.*

BELLIGERENT RIGHTS OF THE CONFEDERATE STATES—QUESTION.

Mr. J. WHITE said he would beg to ask the first lord of the treasury whether the government has determined to withdraw its recognition of the belligerent rights of the so-called Confederate States of America?

Viscount PALMERSTON. Sir, the course of transactions with regard to belligerent rights of the two parties was this: The President of the United States issued a proclamation declaring a blockade of all the coasts and certain ports of the southern confederacy, in accordance, as he said, with the law of nations. Now a blockade, according to the law of nations, is a belligerent right, which can only accrue to a State which is at war; and I need not say that if there is one belligerent there must be two at least, and therefore the fact of the President of the United States declaring that he established a blockade in accordance with the law of nations gave him all those rights which belong to a belligerent in declaring a blockade—the right of capture, and condemnation, and the right of search in regard to neutral vessels. The British government had only one of two courses to pursue; the first, to refuse to submit on the part of British vessels to those belligerent rights, on the ground that there was no formal belligerent on the other side. That was not a course which was at all expedient to pursue, and therefore the only course left us was to acknowledge and submit to those belligerent rights; and that necessarily involved the recognition that the other party was also a belligerent. Whenever the government of the United States shall declare that it ceases to exercise with regard to neutrals those rights of search, capture, and condemnation which belong to belligerent, then, of course, the war will, as far as neutrals are concerned, cease, and necessarily there will need no further acknowledgment of belligerents on one side or the other.

APPENDIX No. VII.

DEBATE IN THE HOUSE OF LORDS CONCERNING THE WITHDRAWAL OF THE RECOGNITION OF BELLIGERENT RIGHTS TO THE SOUTHERN CONFEDERACY.*

[From Hansard's Parliamentary Debates, vol. 180, pp. 1-6.]

HOUSE OF LORDS, *Monday, June 12, 1865.*

UNITED STATES BELLIGERENT RIGHTS—QUESTION.

The EARL OF DERBY. I wish to ask the noble earl, the secretary for foreign affairs, a question with regard to two documents which have lately appeared in the public papers, having reference to American belligerent rights. The first of these documents appears to have been communicated by the noble earl himself to the different departments of government, and the second purports to be a proclamation of the President of the United States. The first document, addressed by the noble earl to government officials, is to the effect that, peace having been restored throughout the territory of the United States, the status of the confederates as belligerents must be taken to be henceforth abandoned. When that document was issued, the statement it contained, that peace had been restored throughout the territory of the United States, was not quite accurate; but since the document was issued the confederate army, which was then in existence, and which was holding the extensive district on the further side of the Mississippi, and was said to be a powerful force, well organized, and capable of continuing the contest, has altogether surrendered, while the chief of the Confederate States, who for four years has maintained a struggle against the whole power of the United States, and who represented a population of seven or eight millions, is now a prisoner in the hands of the federals, and is awaiting his trial. The statement contained in the document issued by the noble earl is, therefore, now practically correct. It may not be out of the way that I should express a hope, entertained not only by myself, but by the noble earl opposite, not only by this house, but by the country at large, and by the whole civilized world, that the party which has achieved such signal success will follow a course not directed by revenge or violence—that they may seek not to exasperate the feelings of their former antagonists, which have been already too much imbibited; but will endeavor, by deeds of conciliation and of mercy, to re-cement, if possible, a union so nearly dissolved; and that they will consent to treat those whom the fortunes of war have placed at their disposal not as revolted subjects, but as vanquished though not dishonored enemies. On the course taken by the United States will materially depend the estimation in which they will be held by the civilized world, and, therefore, this is a subject which cannot fail to be of vital importance to them. I now wish to call the attention of the noble earl to the answer which he gave the other evening to the question of the noble baron (Lord Houghton) who asked him whether, under the circumstances which had occurred, it was the intention of her Majesty's government still to continue to acknowledge the belligerent rights of the Confederate States. The noble earl then gave an answer which was satisfactory to this house, namely, that this must depend entirely upon the course the United States themselves thought fit to adopt in the matter, and that as soon as the United States ceased to avail themselves of belligerent rights as against neutral commerce this country would cease to acknowledge belligerent rights on the part of the Confederate States. Now I desire to call attention to that answer, and to the light in which it is to be regarded in connection with the proclamation lately issued by the President of the United States. That proclamation directs that certain ports are to be opened, but that others shall, for various and particular reasons, be closed for the present, and that the crew of any merchant vessel attempting to enter such closed ports shall be treated as pirates. No doubt the President of the United States exercises great powers, but surely he does not possess the power of changing the international law of the world. He may claim to exercise belligerent rights, and so establish a blockade, or he may make municipal regulations, excluding vessels from certain ports, but he cannot by force of a proclamation justify the infliction on those infringing these regulations the penalties attaching to piracy. The penalty for the violation of a blockade is well defined; and the offense itself cannot be construed into the crime of

* Transmitted with dispatch No. 990, June 15, 1865. See vol. 1, p. 375.

piracy. To force an entry into these ports can simply be regarded as smuggling, and the assumption that any person guilty of an infringement of the regulations of the proclamation is to be held guilty of piracy is one which it is impossible to pass unnoticed. I therefore wish to ask the noble earl whether he has reason to believe that this alleged proclamation of the President of the United States is genuine; whether that proclamation has been communicated to him; and whether in that case he has taken any notice of it, and has protested against a doctrine which it is impossible for us to acknowledge; and whether he is prepared to communicate to Parliament any papers he has in his possession on the subject. I also wish to ask the noble earl how far the circular he has sent round is compatible with the answer he gave the other evening, in which he stated that belligerent rights would not be withheld from the Confederate States so long as the United States put forward a claim to interfere with neutral commerce.

Earl Russell, who was very imperfectly heard, said: I will first state the circumstances under which the letter alluded to by the noble earl was issued. From what we had heard from time to time, the noble earl has been led to believe that the confederates would be able to continue the contest in one part at least of the southern States; but from the more recent accounts it appears that the success of the federals has increased from day to day, and that the confederates are correspondingly less able to keep up the contest with their adversaries, and that the surrender of the entire armies of the latter was to be daily expected. Under these circumstances we had to consider what course we should pursue. There was some difficulty in the matter, because we had no regular communication from the United States assuring us that, as regarded neutrals, belligerent rights on their part had been abandoned. On the other hand, there was great difficulty in our continuing the concession of belligerent rights to the confederates, because of the entire cessation of war on the continent of America, and of the fact that there were at sea two vessels, and only two—the Stonewall and the Shenandoah—which were supposed to be confederate cruisers. One of these was supposed, or understood, to have been disarmed and given up to the authorities at Havana; and the other, the Shenandoah, had put into various ports in the Australian colonies. Obviously it would have been an anomaly, when the war in America had entirely ceased, that the Shenandoah should be going about from port to port in the British dominions obtaining coals and provisions under the Queen's order of 1861. It was under these circumstances the question of putting an end to the belligerent rights came under the consideration of the cabinet. Practically the whole of the American States were under the authority of the government of the United States; the whole of the frontier is now in the possession of the United States government. Since then Galveston has been given up to the United States authorities, and General Kirby Smith has surrendered; so that there is no military force whatever under confederate authority. Before I wrote the letter to which the noble earl refers, I had an interview with Mr. Adams, the United States minister in this country, and I asked him whether his government were ready to abandon their belligerent rights. He said he had no instructions on the point, but he was convinced that his government were prepared to adopt that course. The communication made to the French government on this point was still more explicit. That being the state of affairs, we believed it was due to the United States and to our own position to adopt the course which I indicated in the letter to which the noble earl has called attention. I have no objection to lay the letter on the table. It has been published in the London Gazette, and it has been communicated to the maritime powers generally. I may add that from Madrid and Copenhagen, as well as from Paris, we have received communications expressing a concurrence in our views. With regard to the question of the noble earl on the subject of the proclamation of the President of the United States, I must say that the document is certainly a very curious one. While, no doubt, it is right enough to announce in the proclamation that after a certain date, namely, the 1st of July, the southern ports will all be open to foreign commerce, the reason given for the delay being the necessity for making certain custom-house arrangements, the sentence at the end of the proclamation with regard to piracy is somewhat startling. Sir Frederick Bruce states he has been advised that, according to the American law, persons attempting to enter those ports could not be convicted of piracy for that act; and that if persons should be arrested while attempting to enter them no court of the United States can find those parties guilty of piracy. We must, therefore, presume that it is only intended to hold this threat *in terrorem* over parties who might be disposed to make the attempt. In the letter which I wrote it is stated that within a certain time vessels sailing under the confederate flag will be permitted to enter our ports and disarm. At the same time, her Majesty's government do not pretend to in any way interfere with the legal rights of the United States. As to what the noble earl has said with respect to the action of the American government, I took occasion, when addressing your lordships on the assassination of President Lincoln, to express my great regret that a man whose views appeared to be so just, and who had so pledged himself to a course of mercy, should have been taken away at the moment when he could have put into practice those principles to which he had expressed so firm an adherence. I would again express my opinion that, for the peace of the United States and of the world, it is most desirable

there should be no appearance of passion on the part of those who have now the guidance of the affairs of the American nation.

The EARL OF DERBY. The noble earl has not answered my question as to the proclamation threatening a penalty not warranted either by the law of America or by international law. The noble earl presumes that this proclamation is held *in terrorem* over persons who might be disposed to enter those ports; but I want to know whether the United States government have communicated the contents of this document to her Majesty's government, and whether he has asked for any official explanation of a threat which it is not competent to the American government to carry out, and which is entirely opposed to international law. The document has been published in an official form to the whole world, and it is hardly consistent with our position that no notice should be taken of it.

EARL RUSSELL. It can hardly be said that no notice has been taken of it, as we have this dispatch of Sir Frederick Bruce.

The Earl of Derby asked whether the noble earl would lay the documents on the table.

Earl Russell was understood to reply in the affirmative.

APPENDIX No. VIII.

BILL OF COMPLAINT, AND THE JUDGMENT OF VICE-CHANCELLOR WOOD, IN THE CASE OF THE UNITED STATES OF AMERICA vs. PRIOLEAU AND OTHERS.

[Transmitted with dispatch of Mr. Moran to Mr. Seward, dated July 28, 1865. See vol. 1, p. 363.]

Messrs. Harvey, Jevons & Ryley to Mr. Adams.

EUSTON HOTEL, July 27, 1865.

THE UNITED STATES OF AMERICA }
vs. } In chancery.
PRIOLEAU AND OTHERS. }

SIR: We send you herewith a print of the bill filed in this case, and will send you a copy of the short-hand writer's notes of the argument and judgment at the hearing yesterday before Vice-Chancellor Page Wood.

It will be observed by the bill and the short-hand writer's notes, when you have them, that the case, as put by the pleadings and argued at the bar, is that the so-called confederate government (which is styled throughout a pretended government) could neither acquire nor hold property; and though the vice-chancellor did not adopt the argument fully, his decision only involved the conclusion that the United States of America is the only lawful government, and entitled, as such, to all the public property of the United States.

The motion yesterday dealt with the question of protecting the property pending the investigation of the facts, and before the hearing of the cause. The case to be contended for on behalf of the United States of America can be well considered, having reference to the facts as they will then appear.

We have the honor to be, sir, your obedient, humble servants,
HARVEY, JEVONS & RYLEY.

HON. CHARLES FRANCIS ADAMS,
*Envoy Extraordinary and Minister Plenipotentiary of the
United States of America, 5 Portland Place, London.*

1865. U. No. 20. Filed 18th July, 1865. Amended 24th July, 1865. By order dated—July, 1865.

In chancery—Lord chancellor, Vice-Chancellor Wood—between the United States of America, plaintiffs, and Charles Kuhn Priolean, Theodore Dehon Wagner, James Thomas Welsman, William Lee Trenholm, William Greer Malcolmson, Andrew Malcolmson,

Legarde, the Mercey Docks and Harbor Board, and C. G. Ramsay, (out of the jurisdiction of the court,) defendants.

Amended bill of complaint.

To the Right Honorable Robert Monsey Baron Cranworth, of Cranworth, in the county of Norfolk, lord high chancellor of Great Britain:

Complaining, show unto his lordship the United States of America, the above-named plaintiffs, as follows:

1. The plaintiffs sue and may be sued in respect of all matters touching the interests or public property of the United States by their corporate title of the United States of America, and not otherwise.

2. Previously to the shipment of the cotton after mentioned, divers persons who are inhabitants and subjects of the United States rose in rebellion against the government of the plaintiffs, and formed themselves into an association for the purpose of carrying on the said rebellion. The said several persons usurped the plaintiff's authority, and established in part of the plaintiff's dominions a pretended government, under the style of the government of the Confederate States, which assumed the administration of

public affairs there, and they continued to exercise such usurped authority until the rebellion was put an end to, as after mentioned.

3. The said pretended government, during the period of their exercising such usurped authority as aforesaid, possessed themselves of divers moneys, goods, and treasure which were part of the public property of the plaintiffs; and other moneys and goods were from time to time paid and contributed to them by divers persons, being inhabitants of the United States, and who owed allegiance to the plaintiffs, or were seized and acquired by the said pretended government in the exercise of their usurped authority, and all the said moneys and goods became part of the public property of the said pretended government, and were employed or intended to be employed by them, for the purposes of the said pretended government, in aid of the said rebellion.

4. The said pretended government, some time since, caused a large quantity of cotton, which had been contributed by divers inhabitants of the United States to the said pretended government in manner aforesaid, or had been otherwise acquired by the said pretended government by virtue of and in exercise of such usurped authority as aforesaid, and which had become part of the public property of the said pretended government, to be shipped from Texas (being a place within the dominion and subject to the authority of the plaintiffs) to Havana, with a view to its being shipped thence to England and being sold there on account and on behalf of the said pretended government, and they shortly afterwards caused to be shipped on board the *Aline* a cargo of the last-mentioned cotton, consisting of 1,356 bales or thereabouts, destined for England.

5. The said ship set sail under English colors from the port of Havana on the 10th June, 1865, with the said cargo of cotton on board. The defendant — Legarde is the master of the said ship.

6. The said cotton, the subject-matter of this suit, was shipped in the name of the defendant C. G. Ramsay, not on his own account, but as agent only, and on behalf of the said persons, who had formed themselves into and constituted the said pretended government.

7. The said cotton, the subject-matter of this suit, was consigned by the said C. G. Ramsay to the defendants Charles Kuhn Priolean, Theodore Dehon Wagner, James Thomas Welsman, and William Lee Trenholm, who are merchants carrying on business in Liverpool under the firm of Messrs. Frazer, Trenholm & Co., for sale there. The said ship carried one hundred and two further bales of cotton, consigned to Edward McDowell and George Halidays, of Liverpool, and three bales consigned to or in charge of the defendant — Legarde, but which last-mentioned cotton is not the subject of this suit.

8. The said ship *Aline* has recently arrived with the said one thousand three hundred and fifty-six bales of cotton on board at the port of Liverpool, and she is about to discharge her cargo there. The said ship is consigned to the defendants William Greer Malcolmson and Andrew Malcolmson, of Liverpool, and they now, in conjunction with the said master and with the dock board after mentioned, have control over the last-mentioned cotton. The defendants, Charles Kuhn Priolean, Theodore Dehon Wagner, James Thomas Welsman, and William Lee Trenholm, hold the bills of lading of the last-mentioned cotton, and they threaten and intend to possess themselves of the said cotton and to sell the same.

9. The said ship, with her said cargo on board, has recently been placed in the docks of the defendants the Mersey Docks and Harbor Board, of Liverpool, who are incorporated under the Mersey Docks and harbor act of 1857, and she is about to discharge her cargo in the said docks, and her said cargo is now in the possession and power of the last-named defendants.

10. The said rebellion is now at an end, and the said association, or so-called confederate government, has been dissolved and has ceased to exist, and the several persons who had formed themselves into the said pretended government, and on whose account the said cotton was shipped as aforesaid, have submitted to the authority of the government of the United States, and have expressly ceded and made over to the plaintiffs all the joint or public property of the persons who constituted the said pretended so-called confederate government, including the said cotton shipped by the *Aline* and consigned to Frazer, Trenholm & Co., as aforesaid; and they do not, nor does any person on their behalf, now claim to be entitled to or interested in the said cotton, and by reason of the said pretended government having been dissolved, they cannot be made parties and they are not in fact necessary parties to this suit.

11. The said cotton, consigned to Frazer, Trenholm & Co. aforesaid, is now the absolute property of the plaintiffs, and ought to be delivered up to them.

12. The defendants Charles Kuhn Priolean, Theodore Dehon Wagner, James Thomas Welsman, and William Lee Trenholm hold the bills of lading of the said cotton, consigned to them as aforesaid, as agents only on behalf of the plaintiffs; and the plaintiffs have caused to be served on them, and also on the other defendants in this country, a notice of the plaintiffs' title requiring them respectively not to part or deal with the said cotton without the consent of the plaintiffs; but they refused to act upon the orders of the plaintiffs, and the defendants, the consignees of the cotton and of the ship,

respectively allege that they are bound to follow some instructions which they allege they some time since received from some person or persons unknown to the plaintiffs, to deliver and sell the said cotton in Liverpool; and the defendants, the Mersey Docks and Harbor Board, insist that they are bound to deliver the said cargo to the other defendants, the holders of the bills of lading thereof, who have offered the dock board an indemnity against the plaintiffs' claim; and the defendants, the holders of the bills of lading on the said cotton, will sell the said cotton and remit the proceeds thereof to some persons other than and unknown to the plaintiffs, unless restrained by the injunction of this court; and if the said defendants succeed in so doing the said cotton will be absolutely lost to the plaintiffs.

13. The defendants Charles Kuhn Priolean, Theodore Dehon Wagner, James Thomas Welsman, and William Lee Trenholm, notwithstanding the said notice, still insist on their right to obtain possession of and to sell the said cotton, and they threaten and intend to commence actions at law against the defendants William Greer Malcolmson, Andrew Malcolmson, and ——— Legarde, and against the defendants the Mersey Docks and Harbor Board, to recover the cotton, and they will proceed therewith and obtain judgment and issue execution thereunder, unless restrained by the injunction of this court.

14. The said cotton, consigned to Frazer, Trenholm & Co., as aforesaid, is of great value, but the price thereof fluctuates. It is now estimated as worth £50,000.

15. Divers letters and written and oral communications have passed between the defendants, respectively, and divers persons acting on their behalf, on the one hand, and the said pretended government and divers members, agents, and officers thereof, and the defendant ——— Legarde and other persons, on the other hand, mentioning, or relating, or referring to the said ship Aline and the said cotton, and to the shipment and consignment thereof, and showing, or purporting to show, or otherwise referring to the person from whom and the mode in which and the objects for which the said cotton was acquired and shipped, and showing the real title to the said cotton and by which the truth of the matters aforesaid would appear.

16. The defendants have in their possession or power the letters and written communication herein mentioned or referred to, and divers copies of and extracts therefrom, and divers manifests, invoices, bills of lading, books, accounts, letters of advice, letters of instruction, and other letters and copies of and extracts from the same, receipts, vouchers, documents, memoranda, papers, and writings, mentioning or referring to the matters herein mentioned, or by which the truth thereof would appear, but the defendants refuse to produce or discover the contents of the same.

17. The defendant C. G. Ramsay is now residing in America, out of the jurisdiction of this court.

PRAYER.

The plaintiffs pray as follows:

1. That the said cotton, consigned to the said Messieurs Frazer, Trenholm & Co., as aforesaid, may be decreed to be delivered up to the plaintiffs or as they may direct.

2. That the defendants William Greer Malcolmson, Andrew Malcolmson, and ——— Legarde, and also the defendants the Mersey Docks and Harbor Board, their servants and agents, may be restrained by the order and injunction of this honorable court from delivering the last-mentioned cotton, or any part thereof, to, or causing or permitting the same to be received by, the defendants Charles Kuhn Priolean, Theodore Dehon Wagner, James Thomas Welsman, William Lee Trenholm, or any of them, or to or by any person or persons other than the plaintiffs or as they may direct, and that the said last-named defendants, their servants and agents, may respectively be restrained in like manner from obtaining possession of or selling or parting with the said cotton, or any part thereof, and from negotiating or parting with the bills of lading thereof, and from otherwise dealing with the same, or from paying over the proceeds thereof in case the same shall have been sold by them, or causing or permitting the said cotton or bills of lading or proceeds to be received by or to be paid over to any person or persons other than or except by the direction of the plaintiffs.

3. That the defendants Charles Kuhn Priolean, Theodore Dehon Wagner, James Thomas Welsman, and William Lee Trenholm, respectively, and their respective attorneys and solicitors, may be restrained by the order and injunction of this honorable court from commencing or instituting any action, suit, or other proceeding at law or in equity against the other defendants, or any of them, for recovering or otherwise in respect of the said cotton or the bills of lading thereof.

4. That, if necessary, a receiver may be appointed, with power to sell the said cotton.

5. That all proper inquiries may be made and directions given for the purposes of this suit.

6. That the plaintiffs may have such further or other relief as the circumstances of the case may require.

GEORGE DRUCE.
Amended: GEORGE DRUCE.

Names of defendants.—The defendants to this bill of complaint are Charles Kuhn Prioleau, Theodore Dehon Wagner, James Thomas Welsman, William Lee Trenholm, William Greer Malcolmson, Andrew Malcolmson, ——Legarde, the Mersey Docks and Harbor Board, and C. G. Ramsay, (out of the jurisdiction.)

NOTE.—This amended bill is filed by Messrs. Sharpe & Parker, of No. 41 Bedford Row, in the county of Middlesex, as agents for Messrs. Harvey, Jevons & Ryley, of Liverpool, the solicitors of the above-named plaintiffs.

[Transmitted with dispatch No. 1025, from Mr. Adams to Mr. Seward, dated August 3, 1865. See vol. 1, p. 384.]

VICE-CHANCELLOR WOOD'S COURT, LINCOLN'S INN,
Wednesday, July 26, 1865.

THE UNITED STATES OF AMERICA vs. PRIOLEAU.

(Transcript of Mr. Tolcher's short-hand notes of judgment.)

THE VICE-CHANCELLOR. There are one or two points which I think are tolerably clear in this case. The first point is with reference to the right of the United States of America, at this moment, to the cotton subject to the agreement; I treat it first in that way. It has scarcely been disputed on the present argument, and could hardly be disputed at any future stage of the inquiry, that the right is clear and distinct; because the cotton in question is the admitted result of funds raised by a *de facto* government, exercising authority in what were called the Confederate States of America—that is to say, several of those States, which in union formerly constituted the United States, and which now in fact constitute them, and that *de facto* government exercising its powers over a considerable number of States, (more than one would be quite enough,) raises money, be it by voluntary contribution or be it by taxation is not of much importance. The defendant Prioleau, in cross-examination, admits they exercised considerable power of taxation, and with those means, and claiming to exercise that authority, they obtained from several of the States of America funds by which they purchased this cotton for the use of the *de facto* government. That being so, and that *de facto* government being displaced, I apprehend it is quite clear the United States of America, that is to say, the government which has been successful in displacing the *de facto* government, and whose authority was usurped or displaced, or whatever term you may choose to apply to it, the authority being restored, the United States of America stand in reference to this cotton in the position of those who have acquired on behalf of the citizens of the United States a public property; because otherwise, as has been well said, there would be nobody who could sue in respect of, or deal with, property that has been raised, not by contribution of any one sovereign State, which might raise a question owing to the peculiar Constitution of the Union, such as if it had been raised in Virginia or Texas or in any given State; but the cotton is the produce of levies, voluntary or otherwise, on the members of the several States which have united themselves into the United States of America, and which are now under the control of the present plaintiffs and are represented for all purposes by the present plaintiffs. That being so, the right of the present plaintiffs to this cotton subject to this agreement is, I think, clear, because the agreement is an agreement purporting to be made on behalf of the then *de facto* existing government, and not by other persons. That case of the King of the Two Sicilies, and the case of the King of Spain, and other cases of the same kind, which it is not necessary to go through, show that whenever a government *de facto* has obtained the possession of property as a government, and for the purposes of the government *de facto*, the government which displaces it succeeds to all the rights of the former government, and, among other things, succeeds to the property they have so acquired.

Now I come to the second head of the question; and I confess at this moment, as at present advised, (of course it will open to more argument hereafter,) I do not feel much doubt on the subject, namely, the question whether or not taking this property they must or must not take it subject to the agreement. It appears to me at present they must take it subject to the agreement. It is an agreement entered into by a *de facto* government treating with persons who have a perfect right to deal with them. I apprehend, if they had been American subjects, they might do so. One of them, Prioleau, is not an American subject, at least I have no evidence that he is. He is a naturalized British subject; he would have a perfect right to deal with a *de facto* government, and it cannot be compared with any one of those cases Mr. Gifford put, of persons taking the property of another with knowledge of the rights of that other. That is a species of argument that cannot be applied to international cases of this description, and for a

very good reason. If so, there would be no possibility, during the existence of a government *de facto*, of any person dealing with that government in any part of the world. The courts of every country recognize a government *de facto* to this extent, for the purpose of saying, you are established *de facto* if you are carrying on the course of government; if you are allowed by those whom you affect to govern to levy taxes on them, and they pay those taxes, and contribution is made accordingly; or you are acquiring property and are at war, having the rights of belligerents—not being treated as mere rebels, but having the rights of belligerents—by persons who say they are the authorized government of the country. Other nations can have nothing to do with that matter. They say we are bound to protect our subjects who treat with the existing government, and we must give to those subjects in our country every right which the government *de facto* can give to them, and must not allow the succeeding government to assist any right as against the contracts which have been entered into by the government *de facto*, but as expressed by Lord Cranworth in the case referred to, they must succeed in every respect to the property as they find it, and subject to all the conditions and liabilities to which it is subject, and by which they are bound. Otherwise, I do not see any answer to Mr. James's illustration, and I do not see why there should not have been a bill filed to have the Alabama delivered up. I do not see why, when the two vessels were in the port of Southampton with their flags flying at the masthead, there should not have been a bill filed in this court to have the Alabama given up, because on the theory of the present plaintiffs it was their property just as much as this cotton is now. If the case had been this, and it is the only case I can consider as making any difference, but that difference would be fatal to the plaintiff's case in another point of view, if they had been a set of marauders, a set of robbers, (as was said to be the case in the Kingdom of Naples, truly or untruly,) devastating the country and acquiring property in that way, and then affecting to deal with your subjects in England, it would not be the United States, but the individuals who had been robbed and suffered who would come as plaintiffs. That would be fatal to the claim of the United States as plaintiffs. The United States could only come to claim this because it has been raised by public contribution; and although the United States, who are now the government *de facto* and *de jure*, claim it as public property, yet it would not be public property unless it was raised, as I have stated, by exercising the rights of government, and not by means of mere robbery and violence.

I confess, therefore, I have so little doubt of this agreement being one that would be binding on the plaintiffs, that I cannot act against these gentlemen without securing to them the reasonable benefit of this agreement; and I cannot put them under any terms which would exclude them from the reasonable benefit of what they are entitled to, and must be held entitled to, as, I think, at the hearing of the cause.

As to the reasonable benefit of the agreement itself, the matter stands thus: It is open to argument, and that is enough for the purpose of securing the fund at the hearing; to say that the measures of the defendant's rights will be this, I am not precluding it as against him at all, but merely mention it to secure the fund in the *interim*; that he will be entitled only to take the expenses of sailing the vessel, and so on, out of the gross proceeds, then he will have to divide the surplus into moieties. One moiety of the whole clearly belongs to the plaintiffs, (all that is very agreeable at the hearing, and I say no more upon it at present,) and the other moiety would have to pass to account for the purchase money of the eight ships; and then, of course, passing to the account of the purchase money of the eight ships, the plaintiffs would be entitled to have the eight ships.

There is a clause at the end which did not escape my attention, that he shall take the ships or such as shall remain. That does not apply to selling them to the Brazils, or to anybody else, but to sinking or destroying them. As I read the agreement at present, I incline to think they are to be paid for if destroyed, that is to say, by blockading vessels, accidents at sea, and so on.

That being so, the defendants then swearing that they are under liabilities to the extent of £20,000; that they have actually accepted bills for more than one-half that amount and are liable for the rest; I do not think I ought to deal with them in respect to that £20,000 in any way; but I treat that as a matter which they may put into their own pockets, subject to the possibility of their being called to refund, if any different view should be taken at the hearing, or if, on taking the account, there should be found due less than is really at this moment claimed. But, on the other hand, with regard to the separate £40,000, divided now into two parts, £20,000 having gone to the expenses and the other £20,000 remaining; of that £20,000 it appears to me at present the plaintiffs would be entitled to one-half, and if the defendants insist on laying by the other £10,000, it can only be on the terms of their having come with promptitude, ready to let it be surrendered; when this money shall be raised, they cannot hold both the vessels and the money; they have got four of them and sold one, and have been paid a great deal of money, by cotton, on the others that are afloat: it does not appear to me I could possibly leave them in possession of the property without their

giving security or paying into court (it does not signify which) everything *ultra* the £20,000.

Therefore, the proper order will be to appoint Mr. Prioleau receiver, he having given security for the value *ultra*. I think I will fix it at £20,000 at once, he either giving security for £20,000, or undertaking on or before the 2d November to pay £20,000 into court.

Mr. ROLT. Your honor said something about paying into court the £20,000 *ultra* what is realized?

The VICE-CHANCELLOR. It is this: I assume your property will be £40,000, and I give you £20,000 for the present; then I appoint you receiver, you either giving security for the £20,000, (which I assume to be the balance for the present purpose,) or, if you prefer not giving security, undertaking to pay it into court before the first day of Michaelmas term.

Mr. ROLT. I think the first day of Michaelmas day would be better. I will communicate with my client; but if your honor would put it a little later than that, the cause might be heard and disposed of in the course of Michaelmas term.

Mr. GIFFORD. I doubt that.

The VICE-CHANCELLOR. I confess I think they should have reasonable security until the hearing that the money will be forthcoming, however high the house may stand. I appoint you receiver, which makes you accountable; of course you act as receiver under the court.

Mr. ROBINSON. Your honor sees that at present there are some very heavy charges on this cotton; my client states in his affidavit that the freight alone is £1,300 and over.

The VICE-CHANCELLOR. All that they take upon them. They get the £20,000; he acts as receiver, and that will make him at once accountable to the court. It will be without prejudice to any question in the cause; appoint Mr. Prioleau receiver, he giving security for £20,000; that is one alternative of the order or undertaking on or before the second day of Michaelmas term to pay £20,000 in court.

Mr. ROLT. I do not think it necessary to settle it now; we shall give security, no doubt.

The VICE-CHANCELLOR. I give them the option any time before drawing up this order.

Mr. ROLT. It will be either to give security, or to pay on or before the second day of Michaelmas term?

The VICE-CHANCELLOR. No, no; the order should specify what it is to be.

Mr. OSBORNE. I suppose the dock company will be entitled to deliver it up to the receiver?

The VICE-CHANCELLOR. The receiver is the receiver appointed by the court.

Mr. ROLT. Why the dock company was ever made a party the United States may explain.

Mr. DRUCE. I can explain it in a moment; I am told they would at once have given up the property to you, unless we had made them parties.

Mr. ROLT. Sir, Mr. Prioleau elects to give security for £20,000.

The VICE-CHANCELLOR. Very well. He acts as receiver under the court, and is accountable.

Mr. ROLT. That is without prejudice to any question, of course?

The VICE-CHANCELLOR. Yes, without prejudice to any question.

Mr. ROLT. The cotton must be delivered up to him at once?

The VICE-CHANCELLOR. He is receiver.

Mr. ROLT. I mean he is not to wait until the order is handed out.

Mr. GIFFORD. I dare say the registrar will hand the order out at once.

The VICE-CHANCELLOR. Mr. Rogers will give it out as quickly as possible.

Mr. ROLT. We must have the cotton; we undertake to give security as promptly as the plaintiffs can have the order drawn up.

Mr. DRUCE. Mr. Prioleau undertakes to act as if the order had been drawn up to-day; I have no doubt that will be sufficient.

Mr. ROLT. Yes, certainly; Mr. Prioleau is here and will undertake.

Mr. ROBINSON. And we will send word down this very day to discharge.

The VICE-CHANCELLOR. Yes; all who are here present as defendants will be at liberty to deliver up to the receiver; indeed, it will be ordered to be delivered up to the receiver.

Mr. DRUCE. Anybody who does not deliver to the receiver will be attached?

Mr. ROBINSON. There are certain charges.

The VICE-CHANCELLOR. You have heard the order of the court appointing the receiver, and you will deliver over to him; you will look out for your own charges.

Mr. GIFFORD. If you hand over to the receiver you will be indemnified, of course.

Mr. ROLT. The freight and all shipping charges will be paid by the receiver.

Mr. DRUCE. We had better dismiss the dock company.

The VICE-CHANCELLOR. That you might do; dismiss the dock company and pay them their costs.

Mr. GIFFORD. Very well; without prejudice to how the same are ultimately to be borne.

Mr. ROLT. Without prejudice to any question. Is it to be entered that Mr. Priolean, being in court and undertaking to act as if the order were now drawn up?

The VICE-CHANCELLOR. Yes; he undertakes to act as if the order were already drawn up.

Mr. GIFFORD. That need not be put in the order.

Mr. ROLT. We had better indorse it on our briefs, and then let the cotton be delivered up to him forthwith.

The VICE-CHANCELLOR. Yes.

[At the rising of the court:]

Mr. GIFFORD. Will your honor allow me to mention the case of the United States *vs.* Priolean? We propose, with your honor's sanction, to dismiss the Malcolmsons and Legarde. We would merely ask, as nobody objects, to dismiss them.

The VICE-CHANCELLOR. There cannot be any difficulty in that.

APPENDIX No. IX.

DEBATE IN THE HOUSE OF COMMONS RELATIVE TO THE FITTING OUT OF SHIPS OF WAR IN BRITISH PORTS FOR THE CONFEDERATE STATES. *

[From Hansard's Parliamentary Debates, Vol. 170, pp. 33-73 and 90-94.]

HOUSE OF COMMONS, *March 27, 1863.*

UNITED STATES—THE FOREIGN ENLISTMENT ACT—QUESTION.

Mr. W. E. Forster said he rose to ask the first lord of the treasury, whether the attention of her Majesty's government has been called to the danger to our friendly relations with the United States, resulting, from the fitting out in our ports, of ships of war for the service of the self-styled Confederate States, in contravention of the foreign enlistment act, and of the policy of neutrality adopted by this country. A danger such as he had referred to in his question did really exist, because many persons, British subjects or acting under the protection of British law, and in defiance of the Queen's proclamation and of the statutes of the realm, were breaking the law, and were engaged in efforts to break it to an extent which did certainly place this country in the danger of being involved in war. This was notorious from the papers that had been presented with regard to the most flagrant of these cases—the case of the *Alabama*. From these papers there arose two questions for consideration. The first was, whether her Majesty's government had done all they could—had used every possible exertion—to prevent these breaches of the law; and the second, whether they were impressed with the necessity of the duty of doing their utmost to prevent them for the future. And he must acknowledge that his object, in addressing the noble viscount the question, now was, that he thought that so great was the danger that they could not separate for the recess without obtaining an answer from the government, more especially with regard to the second question, as to the future. With regard to the past, it would have been more convenient had discussion on it been postponed, because his honorable friend, the member for Brighton, (Mr. White,) had a motion for other papers, which would throw additional light on the subject. But in the present state of public feeling, both in this country and in America, there might be advantage in the government being able to give at once some explanation which the facts as presented in the papers already published seemed to demand. He would endeavor briefly to state the circumstances of the case. On June 23d, the American minister, having already had experience of one armed vessel leaving their shores and being engaged in the destruction of American ships, wrote to the foreign secretary, and after referring to the case of the *Oreto*, said:

"I am now under the painful necessity of apprising your lordship that a new and still more powerful war steamer is nearly ready for departure from the port of Liverpool, on the same errand. This vessel has been built and launched from the dockyard of persons, one of whom is now sitting as a member of the house of commons, and is fitting out for the especial and manifest object of carrying on hostilities by sea. It is about to be commanded by one of the insurgent agents, the same who sailed in the *Oreto*. The parties engaged in the enterprise are well known at Liverpool to be agents and officers of the insurgents in the United States."

The American minister, in confirmation of this, inclosed a statement from the American consul at Liverpool, who said:

"The evidence I have is entirely conclusive to my mind. * * * * The foreman in Messrs. Laird's yard says, she is the sister to the gunboat, the *Oreto*, and has been built for the same parties and the same purpose."

The vessel was apparently built under circumstances which suggested concealment, for he added:

"The strictest watch is kept over the vessel; no person except those immediately engaged upon her is admitted into the yard."

The dispatch was forwarded to the foreign office on the 23d of June, and the foreign minister transmitted it to the customs authorities at Liverpool, who replied that they were unable to take any steps to prevent the departure of the vessel. One point on

* Transmitted with dispatch No. 359, March 28, 1863. See Vol. I, p. 286; Vol. II, p. 624; Vol. III, p. 127.

which they required information was, as to the steps the customs authorities had taken to find out the truth or falsehood of the American minister's statement, which was so fully justified by the result. The next letter was dated, July 22d, in which the American minister again wrote to Earl Russell, and inclosed sworn depositions, which abundantly proved that the vessel was on the point of sailing as an armed vessel of war.

Mr. ROEBUCK. The honorable gentleman says "armed," but was she armed?

Mr. W. E. FORSTER. The evidence was that the vessel was to be built and fitted up as a fighting ship in all respects.

Mr. ROEBUCK. She had no guns.

Mr. W. E. FORSTER. No; but one of the depositions—that of a seaman, who had been enlisted by the confederate agent—stated that she had a magazine, and shot and canister racks on deck, and was pierced for guns, and was built and fitted up as a fighting ship in all respects.

The depositions proved the connection of the agent of the confederate government, Captain Bullock, with this vessel as superintending her construction in Mr. Laird's yard, while an old man-of-war's-man deposed to his having been enlisted by the agent of the Confederate States, Captain Butcher, to sail in the vessel. This deponent joined the vessel in Messrs. Laird & Co.'s yard at Birkenhead, and he went on to say:

"The said vessel is a screw-steamer of about eleven hundred tons burden, as far as I can judge, and is built and fitted up as a fighting ship in all respects; she has a magazine and shot and canister racks on deck, and is pierced for guns. * * * There are now about thirty hands on board her, who have been engaged to go out in her. Most of them are men who have previously served on board fighting ships. * * * It is well known by the hands on board that the vessel is going out as a privateer for the confederate government, to act against the United States under a commission from Mr. Jefferson Davis."

The next paper he would read was the opinion of the honorable and learned member for Plymouth, (Mr. Collier,) which was given at the request of the American government. It was as follows:

"I have perused the above affidavits, and I am of opinion that the collector of customs would be justified in detaining the vessel. Indeed, I should think it his duty to detain her; and that if, after the application which has been made to him, supported by the evidence which has been laid before me, he allows the vessel to leave Liverpool, he will incur a heavy responsibility—a responsibility of which the board of customs, under whose direction he appears to be acting, must take their share. It appears difficult to make out a stronger case of infringement of the foreign enlistment act, which, if not enforced on this occasion, is little better than a dead letter. It well deserves consideration whether, if the vessel be allowed to escape, the federal government would not have serious grounds of remonstrance."

That opinion was dated July 23, 1862, and its validity appeared to have been allowed by the government, because Earl Russell wrote five days afterward he had submitted it to the law officers of the crown, and that he had telegraphed for the seizure of the vessel. Now, how was it that five days elapsed after the receipt of this letter before any action was taken by the government? Earl Russell had been informed that the vessel was ready to sail, and he had the strongest possible grounds of suspicion that she was going out in the service of the Confederate States. The house ought also to know how it was that the customs authorities, whose duty it was to prevent the breach of the law, independently of the action of the foreign office, and of the American government, took no steps whatever in the matter. There was another question upon which, as he saw the solicitor general present, he should like to have information. In his letter to Mr. Adams, dated the 22d of September, some time after the vessel had sailed, Earl Russell said:

"The report of the law officers was not received until the 29th of July, and on the same day a telegraphic message was forwarded to her Majesty's government, stating that the vessel had sailed that morning. Instructions were then dispatched to Ireland to detain the vessel should she put into Queenstown, and similar instructions have been sent to the governor of the Bahamas in case of her visiting Nassau."

As these orders had been sent to detain the vessel if she visited Nassau, why was she not subsequently detained in Port Royal, where, after fighting the Hatteras, she took refuge for six days, last January? Earl Russell stated that she sailed the very day that the law officers gave their opinion. So that it appeared that the representations of the American minister had merely the effect of warning the owners that it was necessary she should sail at once. It was certainly a curious coincidence that the day on which the opinion of the law officers was received was the very day when this vessel got away. She left professedly on a pleasure excursion, and, notwithstanding the suspicion which attached to her, the customs authorities did not find out that this pleasure excursion was her actual departure. She sailed out under the British flag, and in Angra Bay was joined by two other vessels under the British flag, and was supplied with arms and stores. It was said that at that time she ceased to hoist the British flag, and hoisted the confederate flag; but had the government attempted to find out

whether she did really make this change? for if she had not ceased to be a British ship she was of course still under British jurisdiction. She made good use of her time, for, up to the 16th of September, she had captured and burned ten vessels. She not only had sailed out under the British flag, but in cases of capture she kept it hoisted until she was on the point of seizing her prey, when she lowered it to give place to that of the confederates. It was hardly surprising that the announcement that this vessel, coming from a British port, and thus hoisting the British flag, was making prize of American vessels, should have given rise to a great deal of feeling in America, and many protests were issued by the merchants in that country. In one protest they said that a large number of American ships had been captured by this vessel; that the cargoes of those ships had been plundered, and the crews subjected to brutal treatment. The protest further stated that the vessel which had committed those depredations had come from an English port; that, up to the time of the commission of the outrages complained of, she had been at no other but an English port; and that she sailed under the English flag, which she only exchanged for that of the rebels when within reach of her prey. Those merchants held that the British government were responsible for the acts of this vessel. Now, he did not mean to say that our government was responsible for them; but he was not astonished that American merchants should suppose that they were. This was almost altogether a British transaction. With the exception of two or three officers there was hardly anything confederate about her. She was manned by a British crew; she sailed out of a British port, under a British flag; she had been built by British builders, contracted for by British agents, and paid for by money borrowed from British capitalists. When they considered that this was not the first vessel that was so employed, they could not be surprised at the feeling existing in America with regard to it.

He had now given to the House a brief statement in regard to the Alabama; but if one ship merely had been or probably would be so employed, he would not have brought the matter then before the House. He had no wish to make a case against the government, and would have been content to let the matter alone; but when it was expected that this ship would be followed by many others of the same class, it became a question affecting their interests, the interests of the country, and their friendly relations with America. He should not have troubled the House if there were not reason to suppose that other ships intended to follow this example. As early as the 30th of September there was a letter from Mr. Adams, stating his strong reasons for believing that other enterprises were in progress in the ports of Great Britain of a similar kind, and had attained such notoriety as to be openly announced in the newspapers of Liverpool and London. In the month of October, one month after the date of that letter, the Chancellor of the Exchequer made several speeches in the North, and there was one statement of his which excited more attention than even his eloquent statements have generally done. The right honorable gentleman stated that the South had an army, and in a very short time would have a navy. He could not be aware at the time of such a speedy realization of his prophecy, or that its fulfillment was then attempted by the agent of the Confederate States. In the same month of October an official letter was intercepted from the secretary of the confederate navy to the agent of the confederates in England, in which he says:

“Mr. Saunders has, as you are aware, contracted with this department for the construction in England of six iron-clad steamers.”

That was, in fact, the construction of a fleet to sail from the shores of England to attack the United States on the part of the Confederate States. The noble lord, the member for Sandwich (Lord Clarence Paget,) would jump at such an addition to the English navy. It seemed that the Chancellor of the Exchequer's prophecy was about to be followed by speedy fulfillment. It was not the case of one or two vessels sailing out to break the blockade, or catch one or two merchant ships, but English ports were made use of for the purpose of carrying on a private war in size and importance almost equal to a public war with the United States. Now there came the question, what was to be done? He did not ask the government to infringe the rights of any British subject, or to infringe the law, or to do anything detrimental to what was supposed to be the British interests, but he asked them to carry out the law, and if the law were not sufficiently powerful, they should come to that House and demand further powers. If they did so, they would only be following the example of the United States, which demanded and obtained summary powers when this country made a request in a similar case. He was not sure that they had waited for our request, nor did he actually know that the English government had made such a request; but if not, the American government did what they considered necessary without it. At the time of the rebellion in Canada, the United States foreign enlistment act not being sufficient to prevent the transgression of the frontier between Canada and the United States, and the passage over it of armed men—precisely the same thing as the passage of armed vessels from the English shores to America—the American government passed a temporary act, enlarging the powers of their foreign enlistment act. He believed the American foreign enlistment act was similar to the English foreign enlistment act, and the cases were

also similar. Both acts contained two provisions—one prohibiting the recruiting of armed men or the marching of an army over the frontier; the other was to prevent the equipping of vessels or the departure of a navy from its ports. ["Hear!"] Notwithstanding that ironical cheer from the opposite side, he would say that they would be only following the example of the friendly conduct of America in a similar situation, if the government would obtain further powers by passing a temporary act for the purpose. When making that suggestion he was only stating what appeared to be the sentiments of Earl Russell during a part of last year. In December, 1862, the noble earl wrote to Mr. Adams that he was prepared to make an amendment in the foreign enlistment act, to render the law more effectual to prevent the fitting out of vessels. The United States would do the same. The only other information they had was, that on the 14th of February last Earl Russell, writing to Lord Lyons, said:

"On a second point, namely, whether the law with respect to the equipment of vessels for hostile purposes might be improved, Mr. Adams said that his government were ready to listen to any proposition her Majesty's government had to make, but that they did not see how their own law on the subject could be improved. I said that the cabinet had come to a similar conclusion. So that no further proceedings need be taken at present on the subject."

Why did the United States government say they did not think an amendment of their law was necessary? Because they had found the law effectual under similar circumstances. Eight years ago, when this country was engaged in a war with Russia a similar case to the present one occurred. We blockaded the ports of Russia as the United States were blockading the confederate ports. We believed we had shut in the Russian navy so as not to interfere with British commerce; but there was a considerable anxiety in this country lest the United States should send out privateers under the Russian flag. We feared that the Americans might do to us what we were now doing to the United States. In consequence of that feeling, our consuls and ministers received the same instructions as the American ministers and consuls now receive, to watch everything that was done. But it might be truly stated with confidence, that notwithstanding the strong temptation presented to American merchants to fit out privateers to prey on English commerce, not one single privateer or vessel of war left American ports to aid Russia during the whole of that war. On the contrary, we could mention two instances in which American subjects showed that they would not break the neutrality law. He believed, it was supposed, that a ship called the General Admiral did leave an American port to assist the Russian government. The fact really was, that Mr. Webb, a great ship-builder in America, received an order from the Russian government to build this ship before the breaking out of the war. He stated that he returned to New York in 1853, and commenced the work; that after the breaking out of the war between Russia and England and her ally, with whom the United States government was at peace, the legality of his continuing the prosecution of the work became questionable; and the result was the suspension of the work and the postponement of the fulfilment of his contract until after the restoration of peace; and they had got part of the correspondence that passed between Mr. Webb and the Grand Duke Constantine on the subject. There was a still more extraordinary case, that of an armed schooner, which was suspected by the British consul, and his suspicions appeared to be almost identical with the suspicions felt by the American consul with regard to the Alabama. What did the American government do? Upon the receipt of a deposition, nothing like so strong as that upon which the Foreign Office took five days to act, and then acted when it was too late, the American government at once detained the vessel until the British consul was convinced that she was not intended for the service of Russia; and that, in fact, she had been armed with a view to resist piracy in the Chinese seas. It was rather a curious coincidence that that vessel belonged to a very eminent American merchant, Mr. Low, who had suffered most from the depredations of the Alabama; and it was also a curious fact that he was one of the largest, if not the largest subscriber to the American fund for the relief of the distress in Lancashire. Therefore the House would not be surprised if his case had excited great sympathy in America. Well, in consequence of the arrest of this vessel, the Maury, the New York Chamber of Commerce, having a feeling, which he feared was not shared much in England, that if the charge had been true such a breach of the laws of neutrality would be disgraceful to their characters as merchants, appointed a committee to examine into the case, and they came to the conclusion that while an apology was due to Mr. Low for the ungrounded suspicions, it was incumbent on them to express their opinion on the charge. What was the nature of the resolution they passed?

"That the merchants of New York, as part of the body of merchants of the United States, will uphold the government in the full maintenance of the neutrality laws of the country, and will acknowledge and adopt, and always have regarded, the acts of the United States in preserving this neutrality as binding in honor and conscience as well as law, and we denounce those who violate them as disturbers of the peace of the world, and to be held in universal abhorrence."

With such a resolution come to in the year 1855, the House could not be surprised:

the resolution recently passed by the same Chamber of Commerce, in which they express their indignation at the fact that armed vessels had been allowed to leave British ports for the purpose of acting against the commerce of the United States. He did not ask the government to infringe the right of any British subject, but he was quite sure that if the custom of Liverpool had acted with anything like the same vigilance as the customs authorities at New York acted in the case of the Maury, the Alabama would never have been permitted to leave the port. And if they acted with anything like the vigilance that was now used to prevent smuggled tobacco coming in, he believed that the vessels that were now being built would never be able to get to sea. If, during the Russian war the Americans had acted toward us as we were now acting toward them, he believed the indignation that would have been caused in this country would have been so great that it would have been very difficult for any government to have maintained peace with the United States. There was only one more point which he wished to impress upon the attention of the government. He could not help thinking, from the perusal of these papers, that the custom-house authorities, whose business primarily it was to see that this law was put in force, were acting in some respects on a wrong principle; for they seemed to suppose that it was not their business to put it in force until the American government took action in the matter. That was not the case. This was not a question of sympathy as between the North and the South, but it was a question of obedience to British law, and of carrying out a British act, the preamble of which said that the equipment or fitting out of vessels in British ports was to be prevented because it was prejudicial and calculated to endanger the peace and welfare of the kingdom. It might be said by some honorable gentleman that the United States had now so much to do that these things could be done with impunity. Suppose that to be the case. Let the House remember what a precedent this country was creating. We were neutrals now, but we had been belligerents, and may be belligerents again; and if so, could we expect that the United States would retire into their old position of neutrality, and act again as they did during the war in the Crimea? But he doubted that a nation of twenty million roused up to a pitch of great excitement, would be restrained from hostilities merely because they were engaged in another war. If there were anything in our own history of which we were proud, it was this—that when engaged in war with one nation we were ready to resent any insult or injury just as strongly as if we were at peace. He would only add that during this war, which had caused so much misery in this country, we had hitherto preserved neutrality under what he was willing to acknowledge had been no little provocation, and under the temptation of what to some appeared an advantage from its breach to the interests of those they most cared for, namely, their industrial population. Having done so, and having now a hope, as he trusted and believed they had, of seeing an end to this terrible war, surely the government would do their utmost to preserve that neutrality from being violated by private interest in order to put money into the pockets of a few ship-owners and contractors, however wealthy they might be, or however high their station.

The SOLICITOR GENERAL. Sir, my honorable friend who has just sat down has referred to the strong feeling which exists in the United States on the subject of the Alabama, and to the important interests which he thinks may be compromised if this country does not exert the powers which it possesses to prevent the fitting out of similar vessels; and he has said that we cannot be surprised that the American merchants and the American public should hold this country responsible for the acts of that vessel. I shall take the liberty of saying that we should have very just reason to feel surprised that so extraordinary an error should prevail in the general mind of the American public if it did not happen that we are able to trace that error in some respects to its source. The accusations that have been made against her Majesty's government with respect to the Alabama, and which I hope to show the House are entirely groundless, are but a part of a series of accusations of systematic breaches of neutrality which unhappily the government of the United States has permitted itself to make against this country, from, I might almost say, the beginning of this war. In their diplomatic communications, made through Mr. Adams to her Majesty's government, and which, I regret to add, constitute no small part of the contents of the book which I hold in my hand—the book laid by the American government before Congress, I find repeated, over and over again, a catalogue of grievances against this country, of which the matter of the Alabama is only a single item. I regret to say that it is indispensably necessary, in order that the House should appreciate the truth concerning the Alabama, and see how utterly destitute of solid ground are the complaints which have been made with respect to the Alabama, that I should show the House in what company those charges are found. I will only mention two or three examples. On the 13th of February, last year, we have Mr. Seward writing to complain of the exportation from this country of munitions of war and arms to the Confederate States, and representing this as a breach of the duties of neutrality, which the government, if sincere in their neutrality, were bound to prevent. On the 1st of May, 1862, Mr. Seward complained that money had been provided by subscription in Liverpool, and employed

in the purchase of arms and munitions for the confederates. On the 12th of May Mr. Adams wrote to Earl Russell complaining of the supply of men and ships, which he mixed up with arms and money, to one of the parties in the war. Upon the 2d of June Mr. Seward sent to Mr. Adams a report of a gentleman who gave a long account of the purchases of arms, munitions of war, and military stores, which had been shipped from England to the Confederate States; and only as late as the 30th of December, 1862, Mr. Adams, while engaged in correspondence with Earl Russell on the subject of the Alabama, annexed to his dispatch documents giving an account of a large quantity of military and other stores which had been exported from this country to the Confederate States, and making the existence of that trade the subject of renewed complaint. It is true that Mr. Adams then endeavored to give some color to that complaint by connecting it with the question of blockade; but if the trade was not otherwise a violation of her Majesty's neutrality, there could be no pretense for saying that the blockade of the southern coast could make it so. This is the manner in which, from first to last, in their diplomatic correspondence with this country, the government of the United States have not thought it unworthy of them to complain of this country as guilty of breaches of neutrality. They have in that correspondence done no more nor less than to deny the application to this country, in this war, of those principles as to neutrals which have been invariably recognized by all nations, and by no nation more emphatically and constantly than by the United States themselves. I have given the House the dates of several of those complaints. I will now mention another date. In November, 1862, the Mexican minister at Washington addressed a complaint to Mr. Seward to this effect:

"I have the honor to inform you that my government has given me instructions to communicate to that of the United States, that the Mexican government has reliable information to the effect that the chief of the French expedition which is invading the republic has sent emissaries to New Orleans and New York to purchase mules and wagons for transporting the cannon, war materials, and provisions to the interior of Mexico. My government thinks that if such purchases should be realized, the neutrality to which they are bound would be violated by the sellers."

Now, what was the answer of Mr. Seward upon the 24th of November to that remonstrance? Mr. Seward in his reply quoted sundry extracts from well-known American authorities, as embodying the traditional doctrines and policy of his government, and constituting his answer to this complaint. What were those extracts? The first was an instruction to the collectors of customs, issued by Alexander Hamilton, the Secretary of the Treasury, August 4, 1793, as follows:

"The purchasing and exporting from the United States, by way of merchandise, articles commonly called contraband, being generally warlike instruments and stores, is free to all parties at war and is not to be interfered with. If our own citizens undertake to carry them to any of these parties, they will be abandoned to the penalties which the laws of war authorize."

Well, have we not abandoned to the penalties of the law all ships of our country which have been found on the high seas carrying contraband of war? The next extract is from Mr. Webster's letter dated the 8th of July, 1842, to Mr. Thompson:

"It is not the practice of nations to undertake to prohibit their own subjects from trafficking in articles contraband of war. Such trade is carried on at the risk of those engaged in it, under the liabilities and penalties prescribed by the law of nations or particular treaties."

In his instructions of the same date Mr. Webster further stated:

"That if American merchants in the way of commerce had sold munitions of war to Texas, the government of the United States, nevertheless, were not bound to prevent it, and could not have prevented it without a manifest departure from the principles of neutrality." Then comes a passage from President Pierce's message to Congress in 1855:

"The laws of the United States do not forbid their citizens to sell to either of the belligerent powers articles contraband of war, or take munitions of war or soldiers on board their private ships for transportation; and although in so doing the individual exposes his property or person to some of the hazards of war, his acts do not involve any breach of national neutrality, nor of themselves implicate the government."

There is yet one extract more. We have heard complaints of loans of money, as well as of the sale of munitions of war. The doctrine of the United States, in that respect, is set forth in a communication from Mr. Webster to Mr. Thompson in 1841:

"As to advances, loans, or donations of money or goods made by individuals to the government of Texas, or its citizens, the Mexican government hardly needs to be informed that there is nothing unlawful in this so long as Texas is at peace with the United States, and that these are things which no government undertakes to restrain."

I think the House will now see that the American mind has not been assisted by its own government to appreciate justly and truly the specific value of the charges in regard to the Alabama, or the manner in which the acknowledged general principles of international law bear upon that and similar cases. We have, therefore, some reason

to complain of, and certainly to regret, the course which the government of the United States has pursued. I now come to the particular case of the Alabama. It is highly necessary, in order that the bearing of this question on international law, and the mutual relations of our government and the United States may be properly understood, that we should in the first instance ascertain clearly what is the right of the latter in the case. We, of course, have the deepest interest in the maintenance of our own rights, and are determined to enforce them in accordance with the laws and constitutional principles of this country. But the fact is, that if we, for our own reasons, and in order to prevent the violation of our neutrality by other governments, had not thought fit to pass the foreign enlistment act—an act which we have as much right to repeal as to pass—if we had not done that of our own will and pleasure, it would have been impossible for the government of the United States, on their own principles, to treat the sale of ships of war as in any degree more unlawful than the sale of any other kinds of munitions of war. I will prove that from their own authorities. They have a foreign enlistment act as well as ourselves, and their judges in deciding cases under it have had occasion to state the principles of that particular law, and also of the general law which prevails between nations. In 1815 the case of the *Alerta* was tried before the Supreme Court of the United States, and in the judgment this passage occurs:

“A neutral nation may, if so disposed, without a breach of her neutral character, grant permission to both belligerents to equip their vessels of war within her territory, but without such permission the subjects of such belligerent powers have no right to equip vessels of war, or to increase or augment their force, either with arms or with men, within the territory of such neutral nation. Such unauthorized acts violate her sovereignty and her rights as a neutral.”

That is just the principle on which the foreign enlistment act is based. It was passed for the defence of our neutrality against any invasion of it by other powers, and not in consequence of any obligation imposed upon us to prohibit such transactions as the building or equipment of ships of war for a belligerent by our subjects. If then, *a priori*, a ship or arms may be sold, unless the neutral State interferes to prevent it, what is the extent of the right which a foreign government derives from the existence of the foreign enlistment act? Only this: that the foreign government may appeal to the friendly spirit of the neutral State to enforce its own statute according to its own principles of judicial administration. The United States government have no right to complain, if the act in question is enforced in the way in which English laws are usually enforced against English subjects—on evidence, and not on suspicion; on facts, and not on presumption; on satisfactory testimony and not on the mere accusations of a foreign minister or his agents. The act must be not only interpreted but executed according to law. It can be put in operation only on such evidence as our own government would deem sufficient to justify proceedings in any other case. There is no comparison between the sale of a vessel of war by a neutral to a belligerent and such a case as that which happened lately in Brazil, where the property of British subjects was plundered on the shores of that country. That was a case in which, apart from local laws, British rights were infringed. But in the present instance the sale of a vessel of war, if brought within the act, is an offense purely because our own law has declared it to be so; and if any foreign government have an interest in getting that law enforced, they must be content to have it done according to the ordinary modes of procedure in this country. It would be a great mistake to suppose that the foreign enlistment act was meant to prohibit all commercial dealings in ships of war with belligerent countries. It was not intended to do so. Two things must be proved in every case to render the transaction illegal—that there has been what the law regards as the fitting out, arming or equipment of a ship of war, and that this was done with the intent that the ship should be employed in the service of a foreign belligerent. I am not going into an inquiry as to the construction of the act, but I may remind those who wish to get at the real truth of the matter of one or two points which have been decided upon the corresponding American statute by the Supreme Court of the United States, the highest tribunal in that country. The House will then see what may lawfully be done on the showing of the Americans themselves. There was a rather remarkable case which occurred in 1822 and was decided by Judge Story. The ship was called the *Independencia*. She was originally an American privateer, built and equipped for and engaged in the war between the United States and Great Britain. After the peace she was converted into a brig and sold. In January, 1816, she was loaded with a cargo of munitions of war by her new owners, inhabitants of Baltimore, and being armed with twelve guns, constituting part of her original armament, she was sent from that port under the command of a native citizen of the United States to Buenos Ayres, then at war with Spain. By the written instructions given to the supercargo on this voyage, he was authorized by the owners to sell the vessel to the government of Buenos Ayres if he could obtain a suitable price. She arrived at Buenos Ayres, having committed no act of hostility but sailing under the protection of the United States flag during the outward voyage. At Buenos Ayres she was sold, and soon afterwards, in May, 1816, assumed the flag and character of a public ship, and was under-

stood by the crew to have been sold to the government of Buenos Ayres; indeed, the captain himself made known these facts to the crew, asserting that he had become a citizen of Buenos Ayres, and had received a commission to command the vessel as a national ship, and invited the crew to enlist in the same service, which the greater part of them did. From that time she was publicly and notoriously employed as a public ship of war of the government of Buenos Ayres. What was the judgment of Justice Story upon that part of the case? It was this:

"The question as to the original illegal armament and outfit of the *Independencia* may be dismissed in a few words. It is apparent that, though equipped as a vessel of war, she was sent to Buenos Ayres on a commercial adventure, contraband, indeed, but in no shape violating our laws or our national neutrality. If captured by a Spanish ship of war during the voyage she would have been justly condemned as a good prize, and for being engaged in a traffic prohibited by the law of nations. But there is nothing in our laws, or in the law of nations, that forbids our citizens from sending armed vessels as well as munitions of war to foreign ports for sale. It is a commercial adventure which no nation is bound to prohibit, and which only exposes the persons engaged in it to the penalty of confiscation. Supposing, therefore, the voyage to have been for commercial purposes, and the sale at Buenos Ayres to have been a *bona fide* sale, (and there is nothing in the evidence before us to contradict it,) there is no pretense to say that the original outfit on the voyage was illegal, or that a capture made after the sale was, for that cause alone, invalid."

I must trouble the House with one more American decision. The case occurred in 1832, and the doctrine laid down in it was, that if a ship was fitted up with part of her armament in the United States and then taken abroad by her owners with intent to complete her armament and employ her in the service of a belligerent power, provided they could obtain funds in a foreign port for that purpose, this was not so definite an intention as to bring the case within the American foreign enlistment act. The question was, whether the transaction, while the ship was still within the territory of the United States, had the character of a warlike armament or that of a commercial speculation; and it was held that this must depend upon an absolute and not a contingent intention. It was said:

"The collectors are not authorized to detain vessels, although manifestly built for warlike purposes, and about to depart from the United States, unless circumstances shall render it probable that such vessels are intended to be employed by the owners to commit hostilities against some foreign power at peace with the United States."

The words are, "render it probable;" which, if the principles of the law of this country are to be regarded, must mean, capable of reasonable proof. Sir, I do not deny that the United States are entitled to approach our government, and to say, "You have laws, the violation of which will be injurious to us, and which you profess to desire in good faith to enforce. Here is a case as to which we can offer you evidence." Our government always have been, and I have no doubt always will be, ready to attend to evidence furnished to them under such circumstances. But let not the House be misled, and let not the American people be misled, as far as to suppose that there is an international ground of complaint merely because a ship of war, with which the Confederate States may carry on their belligerent operations, was built in and comes from this country. A clear ground of complaint would exist if our government themselves, directly or indirectly, were concerned in fitting out such a belligerent ship; and a ground of complaint would exist if a belligerent power were permitted by our government to use our shores or our waters for the actual operations of war; but if it is merely a case of individuals doing that which would be lawful by international law in this country, if it were not for our foreign enlistment act—doing that which is only unlawful because there is a foreign enlistment act—then the whole extent of the right possessed by the United States is to ask us to administer our laws upon the same principles and in the same manner as we should administer them against our own subjects in a matter in which we were ourselves alone concerned. So much I undertake to say our government will always be ready to do; and if the minds of the people of the United States could be relieved from the prejudice, the bias, the false impression produced by the continued representations of their government—that things are unlawful and against international law—which they know well not to be so, I feel perfectly sure that no candid man in the United States could think that there has been a want of good faith and upright intention on the part of our government in anything which has occurred with respect to the Alabama. My honorable friend has said that the Alabama was not the first ship which escaped from this country. That is true; there was the *Oreto*. What were the circumstances of that case? The *Oreto* was made the subject of due representation only once before she left this country, because she sailed from Liverpool on the 22d of March clandestinely, as did the Alabama, and it was only on that same day that a conversation took place between Mr. Adams and Lord Russell which might have led to her detention if she had not gone. On the 18th of February the first and only previous information communicated to our government was given by Mr. Adams. He stated a case which clearly called for inquiry. Accordingly, the commissioners of

customs were directed to make an inquiry; they did so, and on the 22d of February they reported that circumstances worthy of credit tended to show that the *Oreto* was going, or at all events was credibly represented to be going to Italy, and not to America; and not a particle of evidence had been offered to the contrary. She was not then fitted for the reception of guns, and had nothing on board but coals and ballast. There was consequently nothing to justify her detention—nothing but vague rumors and suspicions. No further representation was made, and the *Oreto* sailed on the 22d of March. What then happened? The circumstances of her departure, and the contemporaneous representation made by Mr. Adams to our government, made it probable that she was really intended for the Confederate States, and that our officers had been imposed upon. Still the case was not clear; there was nothing proved to have been done in England which a court of law would certainly have construed as a violation of the foreign enlistment act. Nevertheless, our government immediately sent orders to Nassau, whither she was understood to have gone, and when she arrived there, she was watched. Upon the appearance of a delivery of stores, which appeared to be munitions of war, into the *Oreto* while in our waters, although the case was doubtful, and it was questionable whether the evidence would prove sufficient, still, to show our good faith, we strained a point, and acting upon some evidence, the *Oreto* was seized. What was the result? She was tried and acquitted, the evidence not being sufficient. Did we show any want of good faith in that case? With respect to the *Alabama*, the material facts may be shortly stated. On the 23d of June, Mr. Adams first called the attention of our government to the information he had received about the building of the *Alabama*. It had often been said before that there were many ships in preparation for the Confederate States, but no evidence had been produced in any case, except that of the *Oreto*; and what is more, we now know that, in fact, there were no other ships. The *Oreto* and the *Alabama* appear to be the only ships of the class which have yet been built in this country, whatever may be going on now, which is another question. When they received the representation from Mr. Adams on the 23d of June, our government took the proper and usual course; they directed the commissioners of customs to have the case inquired into. On the first of July the commissioners made their report to Lord Russell; they said it was evident the ship was a ship of war; it was believed, and not denied, she was built for a foreign government; but the builders would give no information about her destination, and the commissioners had no other reliable source of information on that point. Were our government wrong in not seizing the vessel then? The circumstances disclosed in the case tried before Justice Story were so far exactly the same as those which occurred in the case of the *Alabama*, and, in the absence of any further evidence, the seizure of that ship would have been altogether unwarrantable by law. She might have been legitimately built for a foreign government; and though a ship of war, she might have formed a legitimate article of merchandise, even if meant for the Confederate States. Lord Russell, of course, communicated to Mr. Adams the result of the inquiry by the commissioners of customs, intimating, that if Mr. Adams could furnish any evidence it would receive attention. The government have been accused of unreasonable delay. Was there ever a more unfounded accusation? What time did Mr. Adams take to get his evidence? It was not the fault of our government that he was not ready with it from the beginning. Lord Russell communicated with him on the 4th of July; eighteen days passed away before he furnished any evidence whatever; on the 22d he transmitted his first series of depositions; he did not complete his evidence till the 24th, and the letter in which he sent the two last depositions was not received at the Foreign Office till the 26th. So that he did not place the whole evidence on which he relied in the hands of the government till the 26th of July. In the mean time, he obtained the opinion of the honorable and learned member for Plymouth, who, on the 16th, stated his belief that there was a case of suspicion which might prove enough to justify the detention of the vessel. That first opinion was not communicated to her Majesty's government, and the collector of the customs at Liverpool did not think himself warranted in acting upon the evidence when produced to him without higher authority. When the evidence was completed, it was laid before the honorable and learned gentleman, who, on the 23d, thought there was a case sufficient to warrant her detention. Upon that evidence the legal adviser of the government came to the same conclusion as the honorable and learned member. But I wish the House to understand that in those depositions there was a great mass of hearsay evidence, which, taken by itself, could not form the basis of any action. Of the six depositions transmitted on the 22d of July only one was good for anything at all—namely, the evidence of a person named Passmore, which was sufficient to prove the material facts. Two more were sent, corroborating Passmore, on the 24th, and were received by Earl Russell on the 26th. Now, what is the delay of which we are accused? The 26th was Saturday, and the 27th Sunday. The complete evidence was not in the hands of Earl Russell till the 26th, and he told Mr. Adams on the 28th, that is, on the Monday, that the law officers of the Crown had been consulted. He got their opinion on the 29th, the next day, and that very same day a telegraphic message was sent down to stop the ship. Really, sir, one is shocked at the perversion of mind which arises

under, I admit, the most excusable circumstances; for the House will give me credit for sincerity when I say that no one makes more allowance than I do for the natural feeling of irritation on the part of the American nation. No one can be more anxious than I am that we should stand straight with them and they with us. But I must say that but for the perversion of mind consequent on an irritable state of feeling, traceable to causes with which we can sympathize, I cannot conceive how any human being could say that the government have culpably omitted to act with the promptitude which they ought to have shown. I might, perhaps, understand such a complaint if grounded on some such theory as this: That because the safeguards of liberty have been suspended under circumstances of civil war in the United States, therefore they should be suspended in this country too, and the officers of our government should do illegal acts and violate the law on mere accusation and suspicion. My honorable friend referred to an example of the way in which the United States government carried out their foreign enlistment act during our war with Russia. Now, far be it from me to say that the United States government did not act in as perfect good faith toward us in that war as we have acted toward them in this; but if the facts are examined it will appear that they did nothing whatever in regard to the Maury which is not exactly parallel to what we did in the case of the Alabama. What were the dates in reference to my honorable friend's example? Information was given by the British consul of the circumstances upon which he based his belief that that was a ship of war intended for the Russian service on, I think, the 11th of October, 1855. That information was accompanied by evidence raising a sufficient *prima facie* case as to the ship being fitted out as a ship of war; but the affidavits spoke only on belief as to the purpose and destination. That may be the mode of proceeding there, but I cannot see, because in the United States you may be warranted in acting upon belief as to destination, that it necessarily follows the same should be the case in this country also. I might, perhaps, be able to explain the reason why there should be a difference in the practice there. But let us now look at the dates. That evidence which was held to be sufficient for action was given to the United States government at Washington on the 11th of October. They telegraphed immediately to the proper officer at New York, where the ship was, and what was ordered to be done was, not to give a clearance to the vessel. That order was made on the 13th. Did we give a clearance to the Alabama? She sailed without a clearance. We did not in any way facilitate or authorize her departure; it was only by an evasion and a stratagem, violating the laws of the port, that she slipped out. The vessel cited by my honorable friend was not arrested, was not seized, was not placed in a situation practically different from that of the Alabama before her escape, until the 17th of October; on which day a libel was filed in the proper court against the ship by the Attorney General of the United States, and an order for her arrest was made by the court. Until then, as far as appears, she might have slipped out of port without a clearance, as the Alabama did, if she had been really intended for the Russian service. So that the interval between the transmission of the first part of the evidence on the 22d of July and the 29th, when the order to stop the Alabama was given by her Majesty's government, is not longer than the interval between the 11th of October and the 17th, in the American case adduced by my honorable friend, (Mr. W. E. Forster: Take the date of the first letter.) That came to her Majesty's government without any evidence whatever; and I am sure my honorable friend is not one of those who think that without evidence whatever we ought to have stopped the vessel. Even Mr. Adams himself did not think that. When invited to send in his evidence, he took eighteen days to furnish any part of it; the depositions were not any of them sworn till the 21st; they were not all sent in to the Foreign Office till the 26th; and the order of the government was given on the 29th. But of course we are not going to spell out this matter by hours and by days. It is enough to show that each of the two governments acted with reasonable promptitude and dispatch; and there is not the least ground for believing that either government supposed that in consequence of taking the moderate time they did the vessel would have escaped them. The United States government appear to have a more convenient method than ours. Their customs authorities have a court always sitting ready to deal with such matters; but in this country the customs authorities would have had to seize the ship, without any order of the court on the responsibility of the government; and it would be a direct violation of the law to do that unless there was a justifying cause for doing so. I cannot think there is any member of this House who seriously believes in his conscience that her Majesty's government did not act with good faith in this matter. Honorable gentlemen will scarcely say it was an unreasonable thing for them to take from Saturday till Tuesday to get the opinion of their responsible advisers on the completed state of the evidence, which the customs authorities consider to be insufficient at an earlier stage. My honorable friend asked what we propose to do as to other ships supposed to be building, and whether we hold that the foreign enlistment act is to be enforced only at the instance of a foreign government. I have no hesitation in answering him. The government by no means look upon that act as an act to be enforced only at the in-

stance of a foreign government. They are anxious to enforce it to the best of their power; but, of course, they must have legal grounds to proceed upon; and it will not do to tell us that six iron-clads are about to be built in this kingdom, unless the government have the means of knowing where they are to be built, by whom they are to be built, and also that they are to be built under such circumstances as will involve the parties in a violation of the law. We should be glad to receive from any quarter information upon that subject. And I quite agree with my honorable friend that it would be well if the merchants of this country, who may be invited to be parties to such acts, which are acts in violation of the law of their own country, and at the same time calculated, if not to involve the British government in dangerous relations, at least to disturb the amicable intercourse between the two powers—it would be well, I think, if gentlemen who may be invited to enter into undertakings of that description, whether for commercial or other objects, would reflect that it is the duty of merchants, as well as of all other persons, to obey the law, and to have some regard to the interests of their country and the interests of peace, and to have also some regard to the feelings of a foreign belligerent nation, when the law of their own country is in accordance with its interests. Her Majesty's government, I am sure, would, without partiality, follow out any clue they might possess, in order to discover and prevent illegal practices, for they are undoubtedly anxious to put the law in force against any person really violating the law, and against whom they may be able to obtain legal evidence. And if our law is defective it is for this House to consider whether it ought to be amended. If her Majesty's government thought it was so they would be willing, in concert with the American government, to consider how it might be amended. But they could not think it would be acting prudently or safely to come down to Parliament and propose an alteration in our law, unless they had reason to believe that the American government were prepared to take some steps to place their law also on the same basis. Moreover, whatever may be the good faith and good intentions of any government, without the cordial co-operation of its people, it is impossible but that circumstances will, from time to time, arise when any law, however well devised, will be infringed or evaded. The case of our war with Russia has been quoted; but that is not the only war in which we have been liable to injury from the subjects of a neutral state. The House recollects the insurrection in Canada, and what was then done by citizens of the United States. What was the efficiency of the steps then taken by the United States government? I do not say they were unwilling—I am not entitled to assume that. But if they were willing they were not able to prevent even such acts as the attempted invasion of Canada by the ship *Caroline*. I do not remember to have heard that the persons on board of her received any punishment from the United States government, and yet, undoubtedly, acts in violation of international law were then committed, and the government were not able to prevent them. I need not refer to other cases—to the expedition of a person named Walker to Honduras, and similar instances. I do not cast blame upon the United States for these acts, but I only draw from them this inference, that in times of excitement, in times when the spirit of adventure and political or commercial enterprise is abroad, violations of law will occur, which, with all the good intentions in the world, a government may not be able to prevent. What is alleged against us; what is the extent of the acts committed, even by individual subjects of this country, which can be considered contrary to any law of our own? Why, the building of these two particular ships. If our law failed to reach them, while they were within our jurisdiction, and if nothing was done by them in our ports or in our waters which was against international law, how can we be held responsible for their subsequent proceedings when on the high seas? It was not till the *Alabama* reached the Azores that she received her stores, her captain, or her papers, and that she hoisted the confederate flag. It is not true that she departed from the shores of this country as a ship armed for war. But, whatever may have been the guilt of particular persons, this, at all events, I will say, that we have reason to congratulate ourselves, as far as government is concerned, that our neutrality has been strict, impartial, and honest from beginning to end. And, as far as our people are concerned, it is a matter of some congratulation that hitherto no instances of this kind, but those two, are proved to have occurred. On the other hand, I believe there have been a great many enlistments of British subjects into the service of the federation. The House will recollect a remarkable letter at the end of these papers, in which Mr. Seward maintains that the act of a certain officer of the American government, who had held out inducements to the seamen of a British steamer to enter the belligerent service of the United States, could not be very strongly complained of. Mr. Seward says:

"They were needy, and it seems to me that they could well have complained of severity and harshness, if, being disposed, they had been refused permission to enter into the service of the United States."

Is that no violation of neutrality? But we can make allowance for those things, and although fairly entitled to remind the government of the United States that they did not respect our neutrality in all cases, yet we do not pretend to say that the ami-

cable relations of the two countries need to be disturbed on that account. My honorable friend asked what explanation could we give of this—that though orders were sent to stop the ship at Queenstown and at Nassau, when she went to Port Royal, in Jamaica, she was not stopped. I do not know the exact time when she was at Port Royal—I believe it was in January last. But I can appeal to a high authority of the United States themselves for this rule, that although it may be true you may attach and confiscate a ship in a different port, yet it must be in the same course or voyage, and the offense is at an end, and is, for all purposes of action, blotted out, when she has ended that voyage and changed her ownership. I do not know who there was at Port Royal to give instructions or to deal with the case; but this I do know, that coming there in December or January last, at a time when she was the property of the Confederate States, it would have raised a very difficult question if she had been touched. I have no reason at all to believe that, if an opportunity had been offered, proper means would not have been taken to consider and deal with the question; but it probably was thought impossible to deal with the vessel under the new circumstances, seeing that she had ceased to belong to British subjects, and had become the property of the Confederate States. I hope, then, the House will be satisfied that her Majesty's government are free from blame; and if what has been said to-night would only tend to remove the false impressions that may prevail on this question in the United States, so far from regretting the introduction of the subject by my honorable friend, I should look upon it as a matter for our congratulation.

Mr. T. BARING said he had listened with great regret and with great surprise to the honorable and learned gentleman, because he believed the tone of his speech was not likely to allay the feelings of irritation which existed on the other side of the Atlantic on this subject. He was quite sure the honorable and learned gentleman did not wish to increase that irritation, and that the government were anxious to conciliate rather than to provoke. But when the honorable and learned gentleman founded his speech, not upon the application of legal principles to the particular circumstances which the honorable member for Bradford (Mr. W. E. Forster) had brought before the House, but upon a series of charges against the American government, charges about the Caroline, and about Honduras, circumstances which really did not enter into the case, and referred to the diplomatic correspondence with that government in support of them, he thought the effect could not be conciliatory, but rather damaging to our position in that country. The honorable and learned gentleman hoped that America would be brought to reason by his speech. He (Mr. T. Baring) was afraid that the United States would read the speech as an indictment against them for misconduct in times past. If ever there was a moment, if ever there was a question, upon which every angry feeling ought to be eschewed, when that House and the government ought to show the wisdom of forbearance, it was now, when the feeling against this country had risen to such a height on the other side the Atlantic that nobody could predict what the consequences might be. He would ask the government to consider whether the course they had pursued with respect to the Alabama was calculated to give confidence to the United States as to the friendly nature of our disposition. The honorable and learned gentleman had referred to many cases and decisions, and among them to one of Mr. Justice Story. He (Mr. T. Baring) was no lawyer, but he confessed he did not think the decision of Judge Story applied to this case. He said, "Here is a vessel that was sent to Buenos Ayres, and directed to be sold there;" but had the Alabama ever gone into a confederate port, or ever been placed in the position to which the decision of Judge Story applied? This was a most unfortunate case, because it led public opinion on the other side of the Atlantic to question very much the sincerity of our declarations of neutrality, and to believe that, while we issued proclamations, and had foreign enlistment acts in force, we did not really wish to maintain the neutrality which we professed. It was most unfortunate that such a feeling should exist. There had been a vast destruction of property, and great injury had been entailed upon British commerce—for the high insurance which was rendered necessary was a great loss and heavy damage to British trade. And no one could tell where the feeling of animosity which had been engendered would rest. The House was aware that the President was already empowered to issue letters of marque; and if those letters were issued, was there any one who could say that the most frequent collisions might not occur, and endanger the peace of the two nations? We saw already the seizures of British vessels by the blockading squadron without just cause, a proceeding originating, perhaps, in the feeling that we were not sincere in our professions. His honorable and learned friend had referred to what he represented to be parallel cases; but the fact of the Crown lawyers having advised the government to put the enlistment act in force against the Alabama was an admission that the government ought to have arrested that vessel; and the honorable and learned gentleman admits that it would have been arrested if proper precautions had been taken. The question was, did the government take proper precautions? In his (Mr. Baring's) opinion, the conduct of the government and the law officers had been dilatory. He believed that on the 23d of June this matter was brought under the notice of the government. The matter was then referred to the customs authorities at Liver-

pool, whose duty it was, it appeared, to carry the act into effect. Nearly a fortnight elapsed before the report of the customs authorities was received. He thought that, upon the whole facts, it was impossible to acquit the government of undue delay in obtaining information, and as impossible to acquit those who represented the government at Liverpool of having shut their eyes to facts that were notorious. It was discreditable that there should be a law on the statute book as to the operation of which an eminent counsel could declare that it was nothing better than waste paper. He repeated, it was unfortunate that the government had been so tardy in their operations, and that, with the fullest desire, as he believed, to maintain the law, they should yet be so badly represented by those whose duty it was to carry their orders into effect that the customs authorities at Liverpool were not aware of what was going on. He confessed that it was by no means his wish to accuse the government, or to provoke a feeling of opposition to them, on this question. His wish rather was that her Majesty's government should say something that would show the United States that they were anxious to guard against a recurrence of these events, and to prevent the construction in this country of vessels meant for destruction and not for fair fighting. The course pursued by the Alabama was not one of fair fighting against an enemy, but was a wanton destruction of valuable property that must rebound to the injury of British commerce. Events such as had recently occurred might possibly involve the two countries in hostilities, which all must deplore and which government ought to exert themselves, if possible, to avoid.

Mr. BRIGHT. Sir: I have been very sorry to hear the speech of the honorable and learned gentleman, the solicitor general. I agree with the honorable member for Huntingdon (Mr. T. Baring) that, however unfortunate the position of affairs is, this question will be rendered only more so by the speech which has just been delivered by one of the chief law officers of the Crown. The honorable and learned gentleman began by pointing out the inconsistencies of Mr. Seward with regard to what neutral nations may do in cases of this kind. These inconsistencies are clear to all of us, because there can be no doubt whatever that the complaint which has been made by Mr. Seward and by Mr. Adams, with regard to the furnishing of munitions of war, is one which, under ordinary circumstances at least, cannot, with justice, be made, because we know that governments have, as a rule, agreed not to interfere with the supply of munitions of war to those engaged in war. But Mr. Seward made a much greater mistake than that of inconsistency. He was evidently of opinion, when this matter began, that he might calculate, to some extent at least, on the friendly feeling of this country toward the country of which he is minister; because, although this government has allowed the belligerent rights of the southern confederacy, still it pretends to have done that without any feeling of hostility toward the North; and as we receive an American minister here, and as we have a minister in Washington, and as, moreover, the United States government in that city is the only government we acknowledge, and as this is not a case of war between two independent states, Mr. Seward perhaps might have some foundation for the hope that in a case like this he might have calculated upon more forbearance and friendship from her Majesty's government than his country has hitherto received. But I do not wish to follow the honorable and learned gentleman through the points of his speech, though I am quite sure that the effect of it to any one who reads it carefully will be to bring to his mind the sort of speech which the honorable and learned gentleman would have made if he had been in another court and held a brief. I propose to read to the House two letters which have been forwarded to me, not because they will make any difference in the views of the government or the course which the government will take, but I should wish, at any rate, that the people of this country who, I am persuaded, have no wish that any calamitous contention between England and the United States should arise, that they at least should know what is the effect produced by the conduct of some of their countrymen, and what are the results that may possibly follow. I have a letter here, signed, "William Thomas Nicholson," a native of Scotland, but for eleven years resident in the United States, and now engaged in the United States Coast Survey. It is dated "Washington, United States of America, March 5, 1863." He says:

"To-day appeared at the office of the United States Coast Survey, in which service I have the honor to be engaged, Captain F. A. Small, late of the American brig *Corris Ann*, of Machias, State of Maine, who made application (indorsed by members of Congress) for a set of charts to supply his wants, occurring in this way:

"On the 22d of January last he was in command of his vessel, on a private trading voyage from Philadelphia to the port of Cardenas, north coast of Cuba; toward dusk of that day, when off the mouth of the harbor, and between the Rock Key, on which the light-house stands, and Mona Key, within a mile of the land, he was met by a steam vessel having the British union jack flying at the mizen, which vessel, with that flag so flying, fired a shot across his bows, thereafter hauled down the British flag and ran up a flag of the so-called 'Confederate States,' and then fired another shot passing between his masts, and caused him to heave-to. His vessel was boarded by an officer, his papers called for, and he was told his vessel was taken by the confederate steamer

Florida. His charts and chronometer were plundered from him, and he was given only a few minutes to get aboard, with his crew, his small boat, to make as best they could the shore, when the vessel was set on fire by the captors and drifted, a burning wreck, on shore. This occurred in full sight of the vessels at the outer anchorage, and of the town of Cardenas, and not a protest or attempt at succor was made by the Spanish authorities.

"I leave the question of international law, of this so-reported flagrant breach of the sanctity of a neutral's territory, (or waters,) to the United States Secretary of State to deal with the authorities of Spain; but I appeal with the indignation of a native-born Briton against this renewed instance (not the first, if I am rightly informed) of the desecration of the flag of old England—of that 'Meteor flag' so long the pride and the boast of her people.

"The confederate steamer Florida is understood to be the same vessel that cleared from a port of Great Britain under the name of the Oreto, and is said to have been built, purchased, and fitted out therein for the service of the rebel leaders of the South, and is commanded by Captain Maffit, formerly of the United States navy.

"The captain of the destroyed vessel tells me that had he not been deceived by the show of the British flag, and had he known what vessel was approaching him, he would have attempted to run her down, as he was going some ten knots an hour.

"Please note this also: This same Captain Small, (when master of the schooner Sahwa,) in the year 1858, for his gallantry in rescuing the crew of a British vessel (the Halifax) in a sinking condition, was presented by the British government, through the hands of Lord Napier, with a silver-mounted telescope—and now, confiding in the sign of that same flag, his own vessel is destroyed. And this at a time when the people of New York, and other northern ports, are generously dispatching vessels freighted with supplies for the starving operatives of England, for those noble men and women so patiently bearing the sufferings brought upon them by no fault of theirs, but resulting from the mad ambition, the foul conspiracy of a few disappointed slavery propagandists of this country."

Well, he goes on to tell us what is the effect on that country of acts of that nature. The other letter is one I have received on the point to which the honorable and learned gentleman has referred, namely, as to what is now being done. It appears that two ships have gone out; that the government did not know anything about the one, and that the other was too sharp for them. This letter is from a gentleman in Liverpool, who publishes a shipping list, which he sends me. He says:

"LIVERPOOL, March 26.

"I send by this mail two of our shipping lists—The Telegraph. It publishes all the vessels in our port and gives the docks where they lie. By looking over those in the Toxteth dock you will see a steamer entered 'Alexandra, gunboat 120.' This vessel was launched from the yard of W. C. Miller & Son, on Saturday, the 7th of March. This is the same firm that built the Oreto, now called the Florida, the same that recently burned the Jacob Bell. The gunboat Alexandra has been built by this firm for the Confederate government, to cruise and make war against the United States. Fawcett, Preston & Co. make the engines and armament. They are now getting her ready for sea. There is no doubt about the character of this vessel or the parties for whom she is intended.

"This same firm launched on Saturday last another steamer called the Phantom, owned by Fraser, Trenholm & Co. She has three port holes in each side. They pretend she is to run the blockade, but I understand they will put arms on board after she gets out to Nassau. She will be fast and make not less than seventeen miles per hour.

"The two rams, iron-clad, building by Lairds, at Birkenhead, for the confederates, are most formidable. They will each have two turrets or towers similar to the American monitors. They are not yet launched, but will be finished about June next.

"George and James Thompson, at Glasgow, are building a monster ram, iron-clad, for the confederate government. She is over three thousand tons burden. This vessel is not yet launched.

"A steamer owned by Fraser, Trenholm & Co., called the Southerner, has been launched from the yard of Peirce & Co., at Stockton. I have not much doubt but that this vessel is also intended as a privateer, though she will most probably carry out from here a cargo of merchandise, and fit out at Nassau."

I heard, only three weeks ago, when I was in the north of England, at Newcastle, from a gentleman who a few years ago was a member of this House, that this vessel is building and will soon be ready. He mentioned to me the name of one of the confederate agents, whose name appears in the intercepted dispatches, and who was concerned in the Alabama, as being down at Stockton superintending this matter or engaged in making arrangements on behalf of the Confederate States. That is the state of things as far as this gentleman knows; and I believe that the building of those ships is just as nefarious as the building of the Alabama was. There is only one other point to

which I shall ask the attention of the House for a moment. The honorable and learned gentleman thought he had a triumph over my honorable friend the member for Bradford (Mr. W. E. Foster) when he spoke of the United States government and their foreign enlistment act. Well, generally speaking, I should say it is not necessary for our government to alter the foreign enlistment act of this country; but it is a very common thing for all governments—and it has been as common for this as any other—to make laws and to alter laws to meet special cases. I recollect the government of which the noble lord (Viscount Palmerston) was a member, the present foreign secretary being prime minister, bringing in a bill for the purpose of making a felony what was called “advised speaking,” which had been theretofore sedition; and the House of Commons very judiciously, in my opinion, limited that alteration of the law to a period of two years, thinking that although there might be some propriety in the change at a time of great excitement like that, yet it was not necessary to alter the law of England for all time. Now, in this case, the United States government passed the foreign enlistment act in 1818. I think our act was passed in 1819. It was founded upon their act and is, in point of fact, almost the same. But in 1837 the United States government found that that act did not give them power to interfere so summarily as they thought was desirable to prevent difficulty between the United States and England in reference to affairs in Canada, and therefore they passed another act, a few words of which, if the House permit me, I will read. The statute in section 2 says, that the several officers mentioned in the foregoing section shall be authorized and required to seize any vessel or vehicle, (that was any vessel upon the lakes or vehicle endeavoring to cross the frontiers of Canada with arms,) and all arms or munitions of war about to pass the frontier of the United States to any place within any foreign State or colony contiguous with the United States, where the character of the vessel or vehicle, the quantity of arms and ammunition, or other circumstances, shall furnish probable cause to believe that the said vessel or vehicle is intended to operate against a friendly power (I am not quoting the words of the act but such is its effect) and bring the country into difficulty. I will not read more of the act. I have referred to it to show that the alteration was intended to give the government greater power to interfere and put the *onus probandi* rather upon the delinquents, which is a very common thing in this country. I am not sure whether honorable gentlemen opposite, when they came last year to deal with the matter of the possession of pheasants, did not require the delinquents to give proof that they came by the game honestly. Surely, then, I do not see why, in a case involving such a vast issue as war, the government would not be justified in going at least as far as that. The other section of the United States act provides that the party whose ship is seized shall have a fair hearing, and that his property shall, under certain circumstances, be returned to him. The honorable and learned gentleman said that the foreign enlistment act had nothing to do with the law of nations, and that if we chose to repeal that act anybody might build ships of war and sell them to any power in the world. Well, I do not know whether that is so with regard to England, but it is not so with regard to the United States, for the act of the United States says expressly that it is intended to carry out that which is understood to be, and which they acknowledge to be, the law of nations, for the purpose of preserving peace amongst the nations. I shall not go into any further details with regard to this matter. I am satisfied that the speech of the honorable and learned gentleman will give no greater satisfaction to very many persons in this country than it will give to very many in the United States. I am satisfied, further, that if anybody in this country was building a ship of war, and there was a fair suspicion that it was intended to help a revolutionary party in the little kingdom of Portugal, which is always a pet kingdom of this government, I have not the slightest doubt but the government would interfere and stop the sailing of that ship. I say, sir, that our neutrality is a cold and unfriendly neutrality, and I say, that considering the natural alliance between this country and the United States, and the enormous interests which you jeopardize, it does become the government fairly to look this question in the face, and to exert the influence they have, and which I believe the people of this country universally would support them in exerting, to prevent the sailing of these vessels, which can, by no means whatever, have any effect, so far as we are concerned, but to embroil us with that nation with which, of all others in the world, we have the greatest interest in remaining at peace. Do not for a moment believe that because the United States are in this great calamity—out of which they still will come a great nation—do not believe for a moment that acts like these can be forgotten now, or forgotten hereafter. There are people in America interested apparently in creating ill feeling toward England. There are two millions of Irishmen in America, and wherever an Irishman plants his foot on any foreign country there stands an enemy of England. I could read to you a speech of old date, delivered by Lord North, in this house, in which he lamented that among those that were most hostile to England during the revolutionary war were those emigrants who had gone from Ireland. Well, if there be in that country elements of hostility to England, there may be, and possibly are, elements of hostility to America in this country. Why, sir, a man who is worthy to be a minister, instead of speaking in this cold and

unfriendly tone, ought to know that all the living world and all posterity would judge him and condemn him, if he permitted anything to be undone which he could do, that would preserve the peace between the United States and England. I am not afraid to stand here in defense, not of Mr. Seward's dispatches, but in defense of that great claim which the people of the United States have upon the generous forbearance and sympathy of Englishmen. If you had last night looked in the faces of three thousand of the most intelligent of the artisan classes in London, as I did, and heard their cheers, and seen their sympathy for that country for which you appear to care so little, you would imagine that the more forbearing, the more generous, and the more just the conduct of the government to the United States, the more it would recommend itself to the magnanimous feelings of the people of this country. If the noble lord at the head of the government, who is a man of unequalled experience in politics, and who, though he may sometimes drive the coach very near the edge of the precipice, cannot, I should think, intend to drive it over—if the noble lord, who has now for so long a time administered the affairs of this country, with a greater degree of concurrence in this house than perhaps any minister ever enjoyed during his recollection—if the noble lord would now come forward with kindly words and generous acts, in a manly and genial spirit, toward a great and kindred people, he has it in his power to perform services to both nations and to the world at large not exceeded by any that his warmest admirers say he has rendered during his long political career. This night, by that table, on this floor, the noble lord, in five minutes of those genial and friendly words which none know so well how to utter, might send a message to the United States that would allay much irritation and would give great confidence to the friends of peace, not only on that side of the Atlantic, but to a vast number who hang upon his utterance in this country.

MR. LAIRD. Sir: After the discussion that has taken place about the Alabama, I shall not trouble the House with many remarks. I can only say, from all I know and all I have heard, that from the day the vessel was laid down to her completion, everything was perfectly straightforward and above-board in this country. I also further say that the officers of the government had every facility afforded them for inspecting the ship during the progress of building. When the officers came to the builders they were shown the ship, and day after day the customs officers were on board, as they were when she finally left, and they declared there was nothing wrong. They only left her when the tug left, and they were obliged to declare that she left Liverpool a perfectly legitimate transaction. There is one point which has been lost sight of in this discussion. If a ship without guns and without arms is a dangerous article, surely rifled guns and ammunition of all sorts are equally and even more dangerous. I have referred to the bills of entry in the custom-houses of London and Liverpool, and I find that there have been vast shipments of implements of war to the Northern States. I find, among those who have been engaged in these transactions, the celebrated house of Baring & Co.; I find, also, Brown, Shipley & Co., of Liverpool, and a variety of other names, which I need not more particularly mention, but whose northern tendencies are well known to this house. If the honorable member for Birmingham, (Mr. Bright,) or the honorable member for Bradford, (Mr. W. E. Forster,) wishes to ascertain the extent to which the Northern States of America have had supplies of arms from this country, they have only to go to a gentleman who, I am sure, will be ready to afford them every information, and much more readily than he would to me or to any one else calling upon him—the American consul in Liverpool. Before that gentleman the manifest of every ship is laid; he has to give an American pass to each vessel, and he is consequently able to tell the exact number of rifles which have been shipped from this country for the United States—information, I doubt not, which would be very generally desired by this house. I have obtained from the official custom-house returns some details of the "sundries" exported from the United Kingdom to the Northern States of America, from the 1st of May, 1861, to the 31st of December, 1862. There were, muskets, 41,500; rifles, 341,000; gun-flints, 26,500; percussion caps, 49,982,000; and swords, 2,250. The best information I could obtain leads me to believe that from one-third to one-half may be added to these numbers for items which have been shipped to the Northern States as "hardware." I have very good reason for saying that a vessel of 2,000 tons was chartered six weeks ago for the express purpose of taking out a cargo of "hardware" to the United States. The exportation has not ceased yet. From the 1st of January to the 17th of March, 1863, the customs bills of entry show that 23,870 gun-barrels, 30,802 rifles, and 3,105,800 percussion caps were shipped to the United States. This, in addition to the immense quantities of warlike stores, I have already read to the House. So that if the Southern States have got two ships, unarmed, unfit for any purpose of warfare, for they procured their armaments somewhere else, the Northern States have been well supplied with the most efficient means of warfare from this country, through the agency of some of the most influential persons. Now, it has been stated, and by way of comparison treated as matter of complaint, that during the Crimean war the Americans behaved so well. The honorable member for Bradford and the honorable member for Birmingham both lauded

their action as compared with that of our own government. Now, I have heard that a vessel of war was built for Russia in the United States, and actually sailed to Petropaulovski. ["Name!"] If honorable members will allow me I will go on. And first I propose to read an extract from the Times, written by their correspondent at San Francisco, dated the 29th of January, 1863:

"Now this case of the Alabama illustrates the saying that a certain class should have a good memory. During the Crimean war a man-of-war (called the America, if I remember) was built in America for the Russian government and brought out to the Pacific, filled with arms and munitions, by an officer in the United States Navy. This gentleman took her to Petropaulovski, where she did service against the allied squadron; and she is still in the Russian navy. We made no such childish fuss about this act of hostility by a friendly power, which we could not prevent, as our friends are now making about the Alabama, whose departure from England our government could not stop."

The America was commanded by a Lieutenant Hudson, who, if my information be correct, and I have no doubt that it is, was then, or had been just previously, a lieutenant in the American navy; he is the son of a most distinguished officer in the same service, Captain Hudson. I am further informed that some doubts having arisen about the character of this ship, the American men-of-war in the different ports which she called at protected her; and on her arrival in Russia the captain who took her out was, I know, very handsomely rewarded for his services. Now, I will go a step further about the Northern States. In 1861, just after the war broke out, a friend of mine, whom I have known for many years, was over here, and came to me with a view of getting iron-plated vessels of war built in this country for the American government—the Northern government. Its agents in this country made inquiries; plans and estimates were given to my friend, and transmitted to the Secretary of the American navy. I will read an extract from this gentleman's letter, dated the 30th of July, 1861; it is written from Washington and states—

"Since my arrival here I have had frequent interviews with our 'department of naval affairs,' and am happy to say that the minister of the navy is inclined to have an iron-plated ship built out of the country. This ship is designed for a specific purpose, to accomplish a definite object. I send you herewith a memorandum handed me last evening from the department, with the request that I would send it to you by steamer's mail of to-morrow, and to ask your immediate reply, stating, if you will agree to build such a ship as desired, how soon, and for how much, with such plans and specifications as you may deem it best to send me."

The extract from the memorandum states that "the ship is to be finished complete, with guns and everything appertaining." On the 14th of August I received another letter from the same gentleman, from which the following is an extract:

"I have this morning a note from the Assistant Secretary of the Navy, in which he says: 'I hope your friends will tender for the two iron-plated steamers.'"

After this, the firm with which I was lately connected having made contracts to a large extent with other persons, stated that they were not in a position to undertake any orders to be done in so short a time. This was the reply:

"I sent your last letter, received yesterday, to the Secretary of the Navy, who was very desirous to have you build the iron-plated or bomb-proof batteries, and I trust that he may yet decide to have you build one or more of the gunboats."

I think, perhaps, in the present state of the law in America, I shall not be asked to give the name of my correspondent; but he is a gentleman of the highest respectability. If any honorable member wishes, I should have no hesitation in handing the whole correspondence, with the original letters, into the hands of you, sir, or the first minister of the Crown, in strict confidence, because there are communications in these letters, respecting the views of the American government, which I certainly should not divulge; which I have not mentioned or alluded to before. But seeing that the American government are making so much work about other parties, whom they charge with violating or evading the law, though in reality they have not done so, I think it only fair to state these facts. As I said before, they are facts. I do not feel at liberty to state those points to which I have referred as being of a confidential character; but if any honorable gentleman feels a doubt regarding the accuracy of what I have stated, I shall feel very happy to place the documents in the hands of the Speaker, or of the first minister of the Crown, when he will see that they substantiate much more than I have stated. I do not wish to occupy the House longer; but I must say this, that to talk of freedom in a land like the Northern States of America is an absurdity. Almost every detective that can be got hold of in this country is employed, and they have spies everywhere. I believe there are spies in my son's works in Birkenhead, and in all the great establishments in the country. A friend of mine had detectives regularly on his track in consequence of circumstances connected with his vessels. If that be freedom, I think we had better remain in the position in which we now are. In conclusion, I will allude to a remark which was made elsewhere last night; a remark, I presume, applying to me, or to somebody else, which was utterly uncalled for. I have only to

say that I would rather be handed down to posterity as the builder of a dozen Alabamas than as the man who applies himself deliberately to set class against class, and to cry up the institutions of another country which, when they come to be tested, are of no value whatever, and which reduce the very name of liberty to an utter absurdity.

MINISTERIAL REPLY.

VICOUNT PALMERSTON. Now, sir, turning to the much more important and practical question raised by my honorable friend the member for Bradford, (Mr. W. E. Foster,) I cannot but express my regret at the tone of his remarks, and still more at the tone taken by the honorable member for Birmingham, (Mr. Bright.) There is no concealing the fact, and there is no use in disguising it, that whenever any political party, whether in or out of office, in the United States, finds itself in difficulties, it raises a cry against England, as a means of creating what, in American language, is called political "capital." That is a practice, of course, which we must deplore. As long as it is confined to their internal affairs we can only hope that, being rather a dangerous game, it will not be carried further than is intended. When a government or a large party excite the passions of one nation against another, especially if there is no just cause, it is manifest that such a course has a great tendency to endanger friendly relations between the two countries. We understand, however, the object of these proceedings in the present instance, and therefore we do not feel that irritation which might otherwise be excited. But if this cry is raised for the purpose of driving her Majesty's government to do something which may be contrary to the laws of the country, or which may be derogatory to the dignity of the country, in the way of altering our laws for the purpose of pleasing another government, then all I can say is that such a course is not likely to accomplish its purpose. I very much regret, therefore, that the speech of my honorable friend the member for Bradford, and more particularly that of the honorable member for Birmingham, are calculated to encourage those complaints, which I think are totally unfounded on the part of the American government. I should have hoped that gentlemen bringing this question before the House would rather have tried to allay the irritation, instead of making out, as they endeavored to do, that the Americans have just cause to complain against England and the English government. My honorable and learned friend the solicitor general, in that admirable speech which we all listened to with the greatest delight, has demonstrated indisputably that the Americans have no cause of complaint against us. He has shown that the British government have done, on the representation made by the American minister here, everything which the laws of the country enabled them to do. And although I can easily understand that in the United States, owing to the great irritation and animosity produced by the civil war now raging, men's minds have been led to a great degree to forget the obligations of law; and where the practice has been to set it aside, I can easily understand that they are not disposed to give that weight which is due to our argument that we cannot go beyond what the law prescribes and authorizes, yet I think that the House at least will see that the statement of my honorable and learned friend proves that we have, in regard to enforcing the foreign enlistment act, done all that the law enabled or permitted us to do. Honorable members have argued as if the seizure of a vessel were equivalent to its condemnation. They ask, "Why did you not seize the Alabama when you were told that it was known and believed that she was intended for warlike purposes on the part of the confederates?" Now, in the first place, you cannot seize a vessel under the foreign enlistment act, unless you have evidence on oath confirming a just suspicion. That evidence was wanting in this case. The American minister came to my noble friend the foreign secretary, and said, "I tell you this, and I tell you that; I'm sure of this, I'm sure of that;" but when he was asked to produce evidence on oath, which was the only thing on which we could ground any proceedings, he said that the information was furnished to him confidentially; that he could not give testimony on oath, but that we ought nevertheless to act on his assertions and suspicions, which he was confident were well founded. What would happen if we were to act in that way? When a vessel is seized unjustly and without good grounds there is a process of law to come afterward, and the government may be condemned in heavy costs and damages. Why are we to undertake an illegal measure which may lead to those consequences, simply to please the agent of a foreign government? I say if there was any fault it was on the part of those who called on us to do a certain act, and yet withheld the ground-work on which that act could alone be based. I have myself great doubts whether, if we had seized the Alabama, we should not have been liable to considerable damages. It is generally known that she sailed from this country unarmed, and not properly fitted out for war, and that she received her armament, equipment, and crew in a foreign port. Therefore whatever suspicions we may have had, and they were well founded, as it afterward turned out, as to the intended destination of the vessel, her condition at that time would not have justified a seizure. I can assure the House that her Majesty's government have no indisposition to enforce the provisions of the foreign enlistment act. The honorable member for

Birmingham reproaches us, exhibiting a "cold and unfriendly neutrality." I do not know what the meaning of those terms may be; but they appear to me to be a contradiction in themselves. If neutrality is more than friendly toward one party, it is very different toward the other, and ceases to be what, in common parlance, is meant by neutrality between contending parties. But whether our neutrality is warm or cold, friendly or unfriendly, it is sincere and honest. I can assure my honorable friends and the House that whenever it is in our power to enforce the enlistment act legally and in accordance with justice we shall not be found wanting in the performance of our duty. It is a great mistake to suppose that we can view with pleasure any transactions in this country which have a tendency to violate not only the letter, but even the spirit of the foreign enlistment act. It would have been much more agreeable to us if all the supplies that have been so well enumerated by the honorable member for Birkenhead (Mr. Laird) as having been furnished in abundance to one party, and very scantily to the other, had been withheld, and if the whole of the United Kingdom had remained in a state of perfect neutrality between the parties, and if no supplies had been furnished either to the one party or the other. But when we are blamed so heavily for not having acted on suspicions, is it fair for us to say that, as far as suspicions go, we have been informed—perhaps erroneously—that not only have arms been dispatched to the northern part of the United States, but that efforts have been made, in Ireland especially, to enlist persons to serve in the federal army and navy? Unquestionably a great many cases have occurred in North America in which British subjects have been seized and attempts made to compel them to serve against their will in the civil war. Feeling, as we must do, the greatest desire that the most friendly relations should continue to be maintained between this country and the United States—regretting exceedingly any circumstances of any kind which should have caused irritation in the minds of the people of the northern Union, we can only say, that it is impossible for us to go beyond the law. The law is in this case of very difficult execution. This is not the first time when that has been discovered. When the contest was raging in Spain between Don Carlos and Queen Isabella, it was my duty, the British government having taken part with the Queen, to prevent supplies from being sent to Don Carlos from this country. There were several cases of ships fitted out in the Thames; but, though I knew they were intended to go in aid of Don Carlos, it was impossible to obtain that information which would have enabled the government to interfere with success. I hope, therefore, that those gentlemen who have made themselves in this House the mouth-pieces of the North will use the influence, which they are entitled by the course they have taken to exert, to prove to their friends on the other side of the Atlantic that the charges made against the British government are not founded in reason or in law. I trust they will assure them that her Majesty's government will continue, as I maintain they have done hitherto, to enforce the law whenever a case shall be brought before them in which they can safely act upon good and sufficient grounds; there must, however, be a deposition upon oath, and that deposition must be made upon facts that will stand examination before a court of law; for to call upon us arbitrarily and capriciously to seize vessels, with respect to which no convincing evidence can afterward be adduced, is to ask the government to adopt a course which would cast discredit upon them, and lead to much subsequent difficulty and embarrassment. I do hope and trust that the people and government of the United States will believe that we are doing our best in every case to execute the law; but they must not imagine that any cry which may be raised will induce us to come down to this House with a proposal to alter the law. We have had—I have had—some experience of what any attempt of that sort may be expected to lead to; and I think there are several gentlemen sitting on this bench who would not be disposed, if I were so inclined myself, to concur in any such proposition.

APPENDIX No. X.

DEBATE IN THE HOUSE OF LORDS RELATIVE TO THE FRENCH PROPOSITION FOR MEDIATION IN THE CIVIL WAR IN THE UNITED STATES.*

[From Hansard's Parliamentary Debates, vol. 169, pp. 5-6, 10-13, 19, 23-26, 41-43.]

HOUSE OF LORDS, *February 5, 1863.*

THE LORDS COMMISSIONERS' SPEECH.

[Extract.]

MY LORDS AND GENTLEMEN: * * * * *

Her Majesty's relations with foreign powers continue to be friendly and satisfactory.

Her Majesty has abstained from taking any step with a view to induce a cessation of the conflict between the contending parties in the North American States, because it has not yet seemed to her Majesty that any such overtures could be attended with a probability of success.

Her Majesty has viewed with the deepest concern the desolating warfare which still rages in those regions; and she has witnessed with heartfelt grief the severe distress and suffering which that war has inflicted upon a large class of her Majesty's subjects, but which have been borne by them with noble fortitude and with exemplary resignation. It is some consolation to her Majesty to be led to hope that this suffering and this distress are rather diminishing than increasing, and that some revival of employment is beginning to take place in the manufacturing districts. * * *

ADDRESS TO HER MAJESTY ON THE LORDS COMMISSIONERS' SPEECH.

THE EARL OF DUDLEY said: * * * * *

My lords, the royal speech informs us on this occasion, as we have happily been informed on many previous occasions, that "her Majesty's relations with foreign powers continue to be friendly and satisfactory." Our earnest desire must be that they shall so continue. It is of the greatest consequence to the country that it should be so, for it is to that friendship more than to our armies and navies that we look for the peace of the world. In one quarter that peace unfortunately has been broken, and her Majesty declares that she "has abstained from taking any steps with a view to induce a cessation of the conflict between the contending parties in the North American States, because it has not yet seemed to her Majesty that any such overtures could be attended with a probability of success." In my opinion, the proposal which was made to her Majesty's government to intervene in order to bring to an end the civil conflict in America, has been most rightly rejected, inasmuch as any proposition of that sort must have fallen uselessly to the ground, from the temper which at that time prevailed on both sides in America; and I cannot say that even since that offer was rejected any great change toward a better state of sentiment and feeling has occurred so as to afford any likelihood of bringing the two parties together. It must not, however, for a single moment, be supposed that it is not for the interest of this country that that war should cease. Putting humanity out of the question altogether, and speaking of the interests of this country merely commercially, we cannot look to the distress existing in these realms, and know how to a great extent the cessation of that war would cause that suffering to cease, without an earnest desire that the present unfortunate contest in America should be brought to a close. But I do think—especially looking to the feelings which were created by our declaration that we would adhere to a course of strict neutrality between the parties—that anything we can do is more likely to embitter than allay the bitter animosity which at present seems to exist toward this country. Why such a hostile feeling should exist I do not know, for in all truth and honesty our neutrality has been a real one. It may perhaps be natural that both sides should be disappointed by the course we have determined to pursue; for both sides—both the North and South—

* Transmitted with dispatch No. 316, from Mr. Adams to Mr. Seward, February 6, 1863. See vol. I. p. 474.

have made efforts to induce us to a breach of our declared neutrality, and to giving to the world some outward and visible sign of that breach. But I do say, neither here in the House of Lords, nor in the other House of Parliament, nor in the country at large, certainly by none who have the honor and dignity of this country at heart, has there been any other sentiment felt or expressed than that this war should cease. Our desire for the future of America herself, for her people, for her power, leads us to hope for the termination of this unnatural contest. If, despite all we have said and done, there still exists on the other side of the Atlantic such bitter animosity against this country, we must bear with it—we must be prepared to receive, as arising from the excitement of war and the general disturbance of the public mind, imputations and expressions not founded in truth or justice, feeling that the uprightness and dignity of this country can afford to pass them by in silence. My lords, her Majesty refers “with heartfelt grief to the severe distress which that war has inflicted upon a large class of her Majesty’s subjects, but which have been borne by them with noble fortitude and resignation.” No such blow has, indeed, before fallen upon England; and it has been met in the most noble spirit of munificent charity; but we cannot look forward to a chronic state of things such as that described in her Majesty’s speech, in which a large portion of the most industrious of our population are maintained merely by the outstretched hand of charity, without feelings of apprehension. There must be an end to such a state of things, and that end is to be found by bringing about a peaceful solution of the difficulty on the other side of the Atlantic. But whatever is done by England to that end, must be done only in a manner consistent with our honor, and only attempted when the proper moment shall seem to have arrived. I must say—though that is but small consolation—that the result of the distress in the cotton districts has shown that in the days in which we live more confidence is to be placed in the people at large, in their good sense, courage, and forbearance than in times gone by could have been expected. It was scarcely possible that a greater trial could have visited a very large body of the people than that which has now fallen on Lancashire; yet it has been borne without an outrage or crime, so that their conduct has excited the admiration of the world at large. It has been said over and over again, but still I must repeat it here—for what comes from your lordships on so important an occasion as on the night of your first meeting, must come with great weight—it would have been impossible for the country at large to have escaped that disturbance and violence which has prevailed during periods of distress in times past, but for the good sense and patience which have characterized the suffering classes. Speaking of the relief of so great a distress as this, I should be wanting, both in memory and gratitude, if I did not say that not England, only in its length and breadth, has nobly done her duty, but that England’s sons all over the world, especially in her colonies, have been among the most ready to send contributions home to relieve it. I may go one step further, and say that if there has been one bright spot upon the troubled surface of America itself, it is that her citizens, in the midst of all their troubles, have not forgotten that the claims of charity are paramount.

THE EARL OF GRANARD:

My lords: I come now to a topic of the royal speech to which renewed prominence has been given by a late French dispatch. I mean the question of mediation in the civil war now raging in America. However much your lordships deplore the continuance of a war so materially affecting ourselves, and however much we hope for its speedy termination, yet, I think, your lordships will approve the prudence which dictated a policy of non-intervention to her Majesty’s government, and will agree that our interference in American affairs would only have produced intense irritation among the American people. It might have given rise to unpleasant complications, revived ancient jealousies, and certainly would have had no effect in putting an end to the strife. It was, therefore, much better to leave to the Emperor of the French the task which he had imposed on himself, with the hope that his generous intentions and good counsels might be accepted by the contending parties.

THE EARL OF DERBY:

My lords: Turning from this to a certain degree personal, but yet most deeply interesting and important topic, I am happy to be able to say, touching a subject which engages the attention of all men in all parts of the world, that I have no fault to find with, no objection to raise to, the course which her Majesty’s government have pursued with respect to what is justly called the “desolating warfare” now raging in the hitherto United States of America. I may regret, indeed, that her Majesty’s government did not feel themselves justified in joining in the attempt, however hopeless that attempt might appear, to which they were invited by the sovereign of France; not as the noble earl who has just spoken, by a slip of the tongue, said, for the purpose of putting an end to the war, but with the view of endeavoring by good offices to obtain such an armistice or cessation of hostilities as might lead the two parties themselves to reflect upon the miseries and hopelessness of the war in which they are at present engaged. I think it is matter of regret that her Majesty’s government did not feel

themselves justified in acceding to the wish of the Emperor of the French; but before I censure the course pursued by them, it is only fair I should say that they were in possession of much better means of information than any I can pretend to as to whether such an interference as the one contemplated intended to put an end to the war, might not rather have aggravated the bitterness of the strife by the irritation arising from any foreign intervention. Upon that point, which doubtless they considered in all its bearings, they were probably enlightened by the dispatches of our minister at Washington. I therefore take no objection to the course pursued, although I regret that no attempt was made to promote the restoration of peace. "Mediation" would, perhaps, not be a correct or legitimate expression to apply to that proposed species of intervention. I presume that, previous to attempting mediation, the two parties should be agreed upon the terms, or at all events the principles upon which it ought to be conducted; but, if I know anything of the state of feeling in the Northern and Southern States, the question at issue between them is not a question of degree, but a question of fundamental principle, as to which there can be no mediation, because it is a question on one side of the continuance of the Union, and on the other of separation. And so much being decided, it is necessary to determine on what principle the negotiations should proceed—whether on the principle of maintaining the Union in its integrity, or of acquiescing in the separation of the two bodies. I feel that that difficulty meets us at the outset; and I greatly fear from the language of the respective parties that at present the consent of both could not be obtained to either principle. It has been said by personal and political friends of my own—men for whose opinions I entertain the highest respect—that the time has arrived when it is desirable that we should recognize the southern republic. Upon that subject, regretting as I do to differ from any of my friends, I confess I cannot bring myself to the conclusion that the time has arrived at which it is either wise, politic, or even legitimate, to recognize the South. I do not think the circumstances have yet occurred under which a revolting State is entitled to recognition from neutral powers. The first of those circumstances is when, although the State from which a secession has taken place has not acquiesced in it as a *fait accompli*, yet the war is, in point of fact, at an end, and no struggle is going on for the restoration of the original dominion. That was the case when the States of South America revolted from Spain. For a long period before those States were recognized by the powers, Spain had ceased to take any active steps to keep them under her rule. Although, therefore, Spain did not recognize their independence, we did recognize it, because the struggle was, in fact, at an end. Another set of circumstances under which recognition is legitimate is, where other nations having, in the interests of humanity, determined that a desolating warfare shall no longer be continued, in order to put an end to it, agree to recognize the revolting party. But in that case recognition is always followed by something further, for it means nothing unless the powers who join in it are ready to support by force of arms the claims of the State which they recognize. That was the case with regard to Belgium, in its separation from Holland; such was the case with regard to Greece, in its separation from Turkey. No doubt there are occasions when the horrors of war and the danger to the public interests of the world, from the prolongation of a contest, are so great that it is essential it should be terminated by other nations intervening to recognize the secessionists; but when such a case does occur, they must be prepared to go a step further, and to maintain by force the independence which they have acknowledged. I cannot but think that this consideration has not been sufficiently weighed by those who are anxious for the recognition of the South. My conviction, which has been strengthened by everything which has occurred from the first outbreak of the civil war, is, that the restoration of the Union as it formerly existed is the one conclusion which is absolutely impossible. I believe that at first the feelings of this country were strongly in favor of the North, and that it was not generally supposed that the North would have any great difficulty in overrunning and subduing the South. But even at that early period it was perceived, that if the North were to succeed in subjugating the South, its difficulties would only commence; because it was out of the question that where such mutual animosity existed, and such injuries had been inflicted one side and on the other, any cordial reconciliation or union could take place between them. If it was so a year or two ago, how much stronger must this conviction have grown when day by day the struggle becomes more desperate, when it is more apparent that neither party can obtain a signal and decisive advantage over the other, the one on the defensive being always the one which has practically the best of it; and when it is obvious that the continuance of the war is the continuance of the most dreadful slaughter and the most harrowing carnage, accompanied by increasing bitterness of feeling, and accompanied, if we may believe reports, by aggravating atrocities on both sides, which add unusual horrors to those by which war, and especially a civil war, is attended! Under these circumstances, I declare my firm conviction that there is no possibility of re-establishing the Union between the North and the South. At the same time, recollect, the struggle is still going on. The whole sea-board of the South is in the possession of the North, and large federal armies are in southern territory, where they obtain occasional advantages. That being the case, it is impossible

to say that the struggle has practically ceased, so as to admit of our recognition, even if we did not mean to go further; and I do not believe that those who are the most anxious for recognition under existing circumstances are prepared for an interference by force of arms, and insisting on laying down the terms on which a separation is to take place. Therefore, I own I approve, on the whole, of the course pursued by her Majesty's government on this subject, and of that entire neutrality which, I believe, they have practically carried out to the utmost of their power, in accordance with their professions. There is another point. No man with ordinary sentiments of humanity can fail earnestly to desire that the desolating warfare in America should be brought to a close, and I am quite certain that the present government, or any other which might be in power in this country, would eagerly embrace the first opportunity that had a fair prospect of success of tendering such good offices as might lead to a cessation of hostilities. At the present moment I do not, I am sorry to say, see any prospect of such a result, and I fear that the war must go on until both of the combatants simultaneously see the necessity of coming to some settlement.

EARL RUSSELL.—My lords:

Passing from that topic, I come to a question upon which the noble earl spoke at considerable length. I mean the United States. Upon that topic, also, I am glad to agree, for the most part, in the observations of the noble earl. I believe that her Majesty's government has exercised a wise discretion in not interfering, or rather—for it is not interfering—in not joining in giving advice, as the Emperor of the French proposed, to one of the two belligerents. I think we were right, for this reason: that there may come a time when the belligerents themselves, exhausted by the struggle, may wish to refer to some foreign power to assist them in making that peace which it is so desirable to establish. As to the question of recognition, the noble earl has rightly remarked that there are two kinds of recognition. As examples of the first kind of intervention, we have in old times the cases of Holland and Portugal, and in modern times the cases of Belgium and Greece; but no one in this country, I believe, wishes for a forcible intervention on behalf of either of the parties in this case. The cases of Holland, Portugal, Belgium, and Greece were small matters compared with the vast and dreadful struggle in which we should have to interfere if we attempted to decide the claims of either party to the conflict now raging in America. But there is another kind of recognition, and that is a recognition when it is obvious that one of the parties is exhausted by the war, when the attempt to make the other party submit to his authority has failed, and when therefore peace is anxiously wished. We are not arrived at that point yet, because the struggle now going on in different parts of the United States and of the Southern States is kept up, I will not say with undiminished, but with increased power and rancor, and upon a vaster scale. Therefore nothing could be more unwise at present than to have recourse to the power of recognition. There is one thing, however, which I think may be the result of the struggle, and which, to my mind, would be a great calamity. That is, the subjugation of the South by the North. If it were possible that the Union could be reformed, if the old feelings of affection and attachment toward it could be revived in the South, I, for one, would be glad to see the Union restored. If, on the other hand, the North were to feel that separation was finally decreed by the events of the war, I should be glad to see peace established upon those terms. But there may be, I say, one end of the war that would prove a calamity to the United States and to the world, and especially calamitous to the negro race in those countries, and that would be the subjugation of the South by the North. One of the first consequences of such a subjugation must be that the North must keep up a large army, must renounce all its former policy, and must put down by force free discussion and a free press in the South. That would be a dangerous thing. But beside this, would not anarchy prevail in the South? Would not the whole state of society and of labor in the South be disorganized, perhaps, for a century to come? I hope, whatever may be the issue of this contest, that such may not be the results. I trust that we shall see at the close of this struggle either one great republic or two great republics in the full enjoyment of freedom and all the advantages of a great and independent power. For my part, I own that, before the contest began, I rejoiced in seeing the progress of the United States, and was proud to witness the prosperity of a people descended from our own ancestors, and having the same laws and the same love of personal liberty as ourselves. It was, I think, a spectacle at which every Englishman must rejoice, and I should certainly lament if the end of this struggle did not leave the people in those States in the full enjoyment of the benefits and privileges which dignify and adorn mankind.

Having now, I am afraid, exhausted all the topics upon which I am so happy as to agree with the noble earl, I come to those upon which I differ from him, and in respect of which I must take exception to his remarks. He seems to think that I am disposed to meddle in everything. Now, oddly enough, it happens that, with regard to the United States, when we were asked to give advice in conjunction with the French government, the government refused to give any advice whatever.

APPENDIX No. XI.

DEBATE IN THE HOUSE OF LORDS ON THE RELATIONS WITH THE UNITED STATES AND THE FORT- IFICATIONS OF CANADA.*

[From Hansard's Parliamentary Debates, vol. 178, pp. 68-75.]

RELATIONS WITH THE UNITED STATES—OBSERVATIONS.

HOUSE OF LORDS, March 23, 1865.

EARL RUSSELL. My lords, in presenting (by command) papers respecting the termination of the reciprocity treaty of 5th June, 1864, between Great Britain and the United States, (North America, No. 2, 1865,) I wish to make a statement in regard to the relations between this country and the United States. My lords, one of these papers is a letter from Mr. Adams, in which he states that he is commanded by the President to deliver to the British government a notice, dated March 13, in regard to the termination of the reciprocity treaty between this country and the United States, and stating that this treaty will terminate twelve months from the date of the acknowledgment of that notice. Mr. Adams also incloses the vote of the Congress, which has been approved by the President, declaring that it was no longer for the interest of the United States that that treaty should continue. Coupled with this notice is a notice given with respect to the armament of the lakes. Those may perhaps be considered evidences of hostilities toward this country, but I think this is not really the case. I think it must be admitted that recent occurrences on the lakes—namely, the seizure of vessels by the agents of the confederacy and other acts of hostility—completely justify the United States in giving notice of the termination of the convention. My lords, it was not to be expected that the United States would allow itself to remain open to the repetition of such acts of violence, or would submit passively to such acts without availing themselves of all the means of repression within their power. With regard to the reciprocity treaty, although I will not say there are sufficient grounds, yet there are grounds with respect to the admission of articles duty free into the United States which may induce the United States government to wish for a renewal of the treaty with modifications that may be more advantageous, and which the United States government may consider more just to the United States. Accordingly, when Mr. Adams informed me of the result of the negotiations which had taken place between the President of the United States and the agents of the so-called Confederate States, I expressed to him a hope that when he should present to me the notice of the termination of the reciprocity treaty, I should find that the Congress and government of the United States would be ready to consider propositions, by which a small and limited armament might be kept up on the lakes, for the purposes of police at both sides; and also that a renewal of the reciprocity treaty, upon terms to be agreed upon by both parties, might be negotiated during the twelve months to elapse before the existing treaty ceased its operation. Of course, Mr. Adams was not authorized to give me any assurance upon the subject, but the language he used induces me to trust that such an assurance would be given. I am sure your lordships will all be anxious that the relations between this country and the United States should continue as they are now, of a pacific and friendly character, and for my part I should be very sorry that anything should occur, or be done in this country, that would tend to prevent such a satisfactory result. But, my lords, I cannot but think that the expressions which have been used, and speeches which have been made, may tend to excite in the United States a disposition unfavorable toward the end which we thus desire to see accomplished. I allude to speeches declaring that this country has behaved wrongfully to the United States, has given the United States just cause of complaint, and that an unfriendly spirit has been shown by the English people throughout these transactions. My lords, the obvious effect of speeches such as these must be that individuals in the United States who are in favor of hostilities with this country—and there is such a party there—must know that there is in this country a party ready to take up the view that the United States are in the right, and, therefore, that they will be wanting in proper spirit and in proper regard for the national interests

* Transmitted with dispatch No. 908, from Mr. Adams to Mr. Seward, March 24, 1865. (See vol. II, p. 127.)

and the national honor if they do not complain loudly of the conduct of this country. I ask your lordships to attend for a short time to the statement which I have to make, because I cannot but think that the government of this country and this country itself have been wrongfully accused upon these various points. One of the chief complaints put forward is, that this country, in a great hurry and without proper consideration, granted belligerent rights to what are called the Confederate States. Now every one who knows anything of the law of nations knows perfectly well that although a country may put down insurgents who rise against its authority, yet that a country has no right or power to interfere with neutral commerce unless it assumes the position of a belligerent. But that is what the United States did. The President of the United States by his proclamation declared that the coasts of particular States were in a state of blockade, and that armed vessels belonging to those States were to be treated as pirates. There came representations on this subject from her Majesty's minister in the United States, but in the first instance these merely covered dispatches from Admiral Sir Alexander Milne, commanding her Majesty's squadron in those waters, asking how he was to treat the armed vessels of the two parties. At that time Lord Campbell held the high office of lord chancellor, and of course we consulted him and the law officers of the Crown as to what should be done. Lord Campbell declared, as we all supposed he would do, that there was no course but one to pursue, namely, to regard the blockade on the part of the United States as the exercise of a belligerent right, and as belligerent rights cannot be confined to one party, but are necessarily exercised against somebody else, our advisers told us that we were entitled to recognize the existence of belligerent rights on the part of both the combatants, and to declare her Majesty's neutrality between the two parties. And this, accordingly, was the course which we advised her Majesty to pursue. The proclamation in that sense was approved, if not actually drawn up, I believe, by my learned friend the present lord chancellor, then one of the law officers of the Crown. The course of neutrality thus adopted was certainly received with favor, and, I believe, commended itself to the sentiments of the country as the right course for us to take. It is said now that we ought to have awaited the arrival of Mr. Adams. I know not what Mr. Adams could say on the subject. If I had told my colleagues that we must wait for him and consult him, I believe it would only have caused embarrassment in the relations between the two countries. He could scarcely have approved anything which we did short of taking the part of the North against the South. But, then, it is said, if the proclamation of neutrality was not altogether wrong, at any rate it ought to have been delayed, and that unfriendliness was shown in the manner of its promulgation. I conceive that there was nothing unfriendly, nothing uncourteous in the declaration; but, on the contrary, that it was the proper course for this country to declare at the earliest moment that it meant to take part neither with the North nor with the South, but to remain entirely neutral in the contest. Be it observed also that from the issue of that proclamation, on the 13th of May, her Majesty's subjects were bound to take no part in the contest, and were warned that they would disobey her Majesty's injunctions if they gave aid to one side or the other. Your lordships all remember the affair of the Trent. It is said with regard to that affair, as with regard to the proclamation of neutrality, that the proceedings of the government were unfriendly and uncourteous, and I am accused—not for the first time certainly, nor probably for the tenth time, but with as little justice now as on any of the former occasions—of having had a dispatch put into my hands which ought to have been published, because it contained an assurance on the part of the United States government that they did not intend to resist the delivery of the commissioners. My lords, that was very far from being the case. Although Mr. Adams did bring me a dispatch on that occasion, it was a dispatch relating chiefly to other questions between the two countries, and merely ending with a declaration that if any demand were made upon the subject of the Trent, that question would be fairly considered by the United States government. The dispatch was read to me by Mr. Adams, but it was not put into my hands, and therefore I could not publish it. Even had it been left with me, and had I published it, it would have given no satisfaction, because I certainly believed, and my noble friend at the head of the government also believed, up to the last moment, that it was entirely a matter of uncertainty whether the United States government would give up these commissioners, or whether they would refuse to do so, and withhold arbitration. And now as to the manner in which these demands were made. In the first place I wrote to Lord Lyons, and begged him not to make any demands in the first instance, but to see Mr. Seward and acquaint him with the nature of the dispatch, and request that he would name a day when the dispatches could be put into his hand, so that he might have the opportunity of consulting the President before he gave his answer. That appeared to me the course which it was most courteous to take. And I am bound to say, in mentioning these facts, that there is one circumstance connected with them which does the highest credit to the memory, good taste, and discretion of one whose loss the House and the nation have not yet ceased to regret—the late Prince Consort. At the last moment, after her Majesty had approved the dispatch, my noble friend (Viscount Palmerston) received a letter from

the Prince Consort, in which his Royal Highness said that some of the expressions used in the dispatch might be considered too abrupt, and suggested other phrases, which he thought might make it more easy for the government of the United States to accept the request which it conveyed. These phrases, in deference to one who was so great a master of diplomatic language, were adopted by the government and embodied in the dispatch, and, doubtless, tended in some degree to render the document more acceptable to the United States government, who were called upon by its terms to perform a duty in conformity with the law of nations, and regarded by the people of this country as an act of justice. But it is said that, while we displayed great haste in acknowledging the South as belligerents, we were guilty of great supineness in the case of the Alabama, and upon this point I have only to state that the evidence on this subject was furnished to us by Mr. Adams, and that the information which we received was immediately laid before the law officers of the Crown. Their report was received on the morning of the 29th, and it was immediately considered; but on the morning of that day the Alabama, having obtained some intimation of what was likely to occur, left Birkenhead, and was no longer within our reach. On this question, however, I will say no more, because it may form a matter for discussion between the government of the United States and our own. I do not wish in any way to forestall that discussion, but I think I may say that we have done everything which either international law or the laws of this country demanded of us in order to prevent the attacks made on the trade of the United States. There was, however, another case which was the subject of much discussion, and in respect to which considerable irritation was created, and some discussion had been raised which was entirely unnecessary. After the Alabama had sailed from Birkenhead, the same firm which built that vessel began to build other vessels, the construction of which amounted in itself to an armament, and furnished evidence of a hostile purpose. The owners of those vessels were known to be in correspondence with Captain Bullock, the agent of the Confederate States, and we had every reason to believe that those iron rams were intended to break the blockade of the southern ports, which had been established. Now, it seemed to me that if those vessels, with armament so completed, were allowed to proceed from the port of Liverpool, the utmost danger to the friendly relations existing between this country and the United States would have been the result. I could not conceive it possible that the United States would have allowed those armed vessels to break the blockade, which had been acknowledged by the authorities of this country, and not make demands with which we might not have found ourselves able to comply. I therefore took what was a very strong measure on this subject. I ordered those rams to be detained, and afterward directed that they should be seized for the purpose of preventing them from committing acts of hostility. We subsequently had placed in our hands the contract by which the agents of the Confederate States had agreed to sell those rams to Mr. Bravay, who said they were not intended for purposes of hostility against the United States. The question, however, remained to be tried, and we came to the conclusion that, though the moral evidence was complete, and though we believed the legal evidence to be complete, there might still be circumstances which would prevent a conviction from being obtained. I am, however, convinced that it would not only have been unfortunate, but that it would have been an ignoble and ignominious thing if we had been obliged to go to war, not for the honor of England, because that was not engaged; not for the interests of England, because they were not involved; but for the sake of private considerations, where no injustice had been done. I therefore regret very much that the noble earl opposite took the course which he has taken, and that he should have done everything in his power to prevent our stopping those vessels, which might otherwise have gone and broken the blockade. I have now stated the course which her Majesty's government have taken in these matters. I will now say that there is every reason to hope that as the ports of the southern States have been captured by the arms of the United States, many questions which have hitherto arisen as to the breaking of the blockade, the imprisonment of the crews of vessels, and several other questions touching the maritime rights of the two countries, will disappear, and that there will be the less reason to apprehend the occurrence of hostilities between us and the United States. I must at the same time observe that the impartial course which her Majesty's government has pursued, has from time to time been impeded and endangered on the one side by those partisans of the North who were constantly stating that we were acting in a manner hostile to the North, and, on the other, by those who were as constantly violating the neutrality which her Majesty had proclaimed in the pursuit of their own private ends. But, be that as it may, I am satisfied that there is not the slightest pretense for saying that the course which the government has pursued has not been strictly neutral. To-morrow a new minister will set out from this country to represent her Majesty at Washington. We greatly lament that Lord Lyons is, owing to the state of his health, unable to return to his post. There is no person to whom the country is more indebted for the wise, calm, and conciliatory line of conduct which he has pursued than that noble lord, who has never failed, at the same time, to maintain the dignity and honor of the country;

and I am happy to do justice to his eminent acquirements and talents. Sir Frederick Bruce, who is about to take his place, has distinguished himself greatly in China, by the firmness of his policy. He has acted in such a manner toward the Chinese government as to completely win their confidence; his conduct toward the representatives of the other European powers has been such as to obtain their concurrence in every step which he has taken. Toward the British merchants and British interest in China he has so acted, that while willing to listen to their complaints and to obtain redress for their just grievances, he has never shown himself prepared to support their unreasonable demands, or make any proposals contrary to the spirit of the treaties with his country. That being so, he appears to me to be exactly the man whom it is desirable her Majesty should choose to represent her in the United States, and I hope that under his auspices the friendly relations between the two countries will be maintained.

APPENDIX No. XII.

DEBATE IN THE HOUSE OF LORDS ON THE SUBJECT OF FEDERAL RECRUITING IN IRELAND.*

[From Hansard's Parliamentary Debates, vol. 173, pp. 1317-41333.]

UNITED STATES—NORTH AMERICAN ARMY—FEDERAL RECRUITING IN IRELAND—MOTION
FOR PAPERS.

HOUSE OF LORDS, *March 1, 1864.*

THE MARQUIS OF CLANRICARDE, in moving, according to notice, for copies of any reports which may have been received by her Majesty's government respecting recruiting in Ireland for the North American army, said: The enlistment of soldiers on the part of a foreign state in this country involved a question of very considerable importance. It had, indeed, been always held that a country could scarcely commit a greater infraction of the rights of another, or a greater breach of comity and international law, than by attempting to recruit for its own service citizens who owed allegiance to the other power. It was, for other reasons also, desirable to know whether the government were taking steps, in the instance to which his motion referred, to maintain the neutrality of this country. In Ireland, in former times, the law upon the subject was very strict, for the offense of enlisting in a foreign service was punished with death, and three men were, in point of fact, executed in that country in 1749 because they had enlisted in the French service, though we were then at peace with the French people. The severity with which the offense used to be visited was, however, very properly relaxed in 1819. The foreign enlistment act was passed, and a milder law, in accordance with the spirit of the present day, introduced. The offense continued penal, but the severer punishments were abolished, and other precautions were adopted against British subjects enlisting in the service of foreign powers; and when, in 1823, a motion was made by Lord Althorp to mitigate still further the penalties of the foreign enlistment act, the proposition was supported by the noble earl now secretary for foreign affairs. Having said thus much, he would shortly proceed to advert to the fact that recruiting for the federal States had notoriously been carried on in Ireland with very little check during the last two years, without, so far as he was aware, any serious notice having been taken of those proceedings by her Majesty's government. He should therefore like to know whether any remonstrances had been made on the subject to the United States, and whether any steps had been seriously taken to put an end to a state of things with which, as far as he could form an opinion, the common law ought to be found sufficient to deal. He was not, in order to prove the existence of that state of things, going to quote newspapers or letters, relying, as he did, so entirely on the notoriety of the facts that he should be surprised if any member of the government should rise in his place and contradict the assertion that agents of the federal government had been indirectly engaged in recruiting in various parts of Ireland. Now, he had no very high opinion of the efficiency of the Irish government in its present form as a machinery for executive administration, believing, as he did, the lord-lieutenancy, with all its paraphernalia, to be an inefficient, obsolete office; but it was, he thought, impossible that the Irish constabulary, who were, as a body, honest and intelligent, and who endeavored, in spite of many impediments, to do their duty, should be entirely ignorant of what was going on, and should not have made some reports on the subject to which he was adverting to the heads of the Irish government, and that they, in their turn, should not have made similar reports to the authorities at this side of the water. It was impossible, therefore, that the noble lord, the secretary for foreign affairs, could be in ignorance on the matter, especially when there was scarcely a newspaper published in Ireland or in London in which some allusion had not, within the last year or two, been made to recruiting for the federal army as having been carried on in Louth, Tipperary, Cork, Carlow, Dublin, and other counties. Indeed, the noble earl, the foreign secretary himself, had adverted to the subject pointedly in his communications with the American minister at the English court, in which he stated, as appeared from the papers which had been published, and most truly, that if a balance were struck of the assistance given by British subjects and by the supply

* Transmitted with dispatch No. 607 from Mr. Adams to Mr. Seward, March 3, 1864. See vol. II, p. 440.

of the munitions of war to the contending parties in America, that balance would be found to be greatly in favor of the federal States. The noble earl, no doubt, alluded not only to the Irishmen who were in the United States when the war broke out and then enlisted, but to those who had gone out from Ireland to America to enlist in the northern armies. If, he might add, he wanted further evidence as to the existence of recruiting in Ireland for those States, he might find it in the returns of the immigration commissioners, who had, he understood, ascertained it to be an undoubted fact that the emigration of single young men to the United States from that part of the kingdom had very much increased in the years 1862 and 1863 as compared with the previous years. Now, that was a very significant fact, when they considered that the vast proportion of assisted emigrants in Ireland were small farmers, with wives and families who would be useful to such emigrants in America. There could be no doubt that these young men were intended for the army, and not for peaceful industry, because British capital was not now being invested in America; and American capitalists were rushing to get army contracts, out of which they got more than any other investments. He would, however, in the support of the case which he was endeavoring to make, mention one specific fact which had come under his own immediate observation. Not quite two months ago a man arrived at a central station in the county of Galway, and at once proceeded to make it known that he had come to engage some thousands of men and to take them across the Atlantic, tempting them by the offer of good pay. He made known his business to the publicans in the town where he first stopped, and went on to another town and did the same thing, promising so much per head for every person whom they succeeded in engaging for him. The fame of his operations naturally spread, and several persons being anxious to obtain the "bringing money" for enlisting, the police properly thought they had a right to interfere, and he (the Marquis of Clanricarde) being in the neighborhood, was the magistrate before whom the party was brought. It was then found, that instead of being an American, he was a native of a village within a few miles of the place where he was taken into custody. He had been in the American army, and had received a gun-shot wound, and had come home to pick up recruits for the federal army. He said—and produced a paper to the effect—that he was enrolling laborers for a great industrial work in America, and he appeared anxious to assume the character of an American citizen and an American functionary. Now, it was very well known to their lordships, but perhaps not to the persons this man engaged, that a contract made with an Irishman in Ireland would be worth very little in New York; but, remembering the proceedings of the United States government with reference to recruiting, their lordships would agree with him that an Irishman landing in New York and wishing to repudiate the contract would have very little chance of doing so. It was a remarkable thing that he had no more money about him than was sufficient for his personal expenses, and when asked to explain how, with such means, he was to engage the laborers and pay the publicans for their aid, he referred not to any great railway contractor or engineer, or other person generally found to be in connection with such schemes, but to the American consul. The American consul at Liverpool gave him, he said, a letter to the American consul at Dublin, and if they were written to it would be found that he was solvent and well able to discharge all his engagements. The man was a little astonished when he told him that he should not admit his American pretensions; that he knew him to be an Irishman, and should treat him the same as any Irishman who had never left his native village, and that the reference to American authorities would not avail him one jot. It was transparent that it was intended to evade or infringe our law. But how did the Americans act toward us in 1865, under circumstances, not indeed similar, but in some degree analogous? What was their doctrine when it was a question of paying the passage of, not Americans, but our own subjects home, or to some British colony, in order that they might there, if they pleased, enlist in her Majesty's army or navy? The whole of the papers had been laid before Parliament, and it appeared that at that time our consuls at New York and elsewhere reported that a number of laborers out of employment, who were British subjects, had applied for means to go home, with the view of enlisting in the army or navy of their own country. Sir John Crampton, then Mr. Crampton, thought it right to take the opinion of an American lawyer upon the American law, which made it an offense to hire or retain any laborer for any employment or under any pretense to go beyond the jurisdiction of the States, in order that when there such person might be enlisted. In the opinion obtained a case was quoted in which the Supreme Court had held that the words "hire or retain" were susceptible of a very broad interpretation, and the lawyer stated that he was inclined to think they would be held to reach every case of payment for the removal of a person from the States; that the intent would be left to the jury; and that the judge would be bound to tell them that no scheme could be devised which would allow the intentions of the law to be defeated. Accordingly, a person was tried under the law referred to, and for enabling a British subject to go to Nova Sevre, there to enlist in the British army or navy, he was sentenced to two years imprisonment and one hundred dollars fine. The American government withdrew the *exequaturs* of the consuls, and insisted on the removal of

Mr. Crampton, upon the ground of that law having been infringed. They would not allow us to send home our own men, because it might be inferred that when here, if they had no other employment, they would enlist; but now they were sending emissaries to Ireland to entrap not their own but our countrymen in their service. There was no parallel, although there was analogy between the two cases. We wanted British subjects sent home who were anxious to enlist in our service. The Americans wanted to inveigle and enlist British subjects in Ireland for service in the United States. Perhaps he should be told that the government knew nothing of the case, and that it had never been reported to the Irish government. He regretted that the whole-some practice of the Irish government communicating with men of position in the country had been abandoned, and that they depended entirely on the police for information. The police had acted in this case, and therefore it was for them to have reported it. There was, however, no evidence produced by the police against this person, and therefore he (the Marquis of Clanricarde) discharged the prisoner with an admonition, and satisfied himself with taking steps which he thought would have sufficient effect to stop the man's operations in that neighborhood. But he came next to a case as to which he was surprised that no papers had been laid before Parliament, because action had actually been taken on it—the case of the American cruiser, the *Kearsarge*, which came into Cork harbor and began to enlist men under the very nose of our admiral, and almost alongside of our flag-ship. That certainly was rather more than could be stood. From the informations which had been taken on the subject, it was pretty well known what had happened. It was bruited about that the United States government were giving good bounties for men, and some of the idle seamen about Queenstown went on board. The vessel then sailed off for Brest, and on arriving there the men were put ashore and told that they might return if they liked and take service for three years. However, from some change, probably from change of orders, the men were returned to Cork, and then the government prosecuted them under the foreign enlistment act, and six of them were now held to bail. He wished to know, however, what proceedings had been taken against the United States government in the matter. It was a paltry thing to go merely against our own men. They were held to bail in twenty pounds each, with one surety of twenty pounds each, so that if it suited the American government, for two hundred and forty pounds they could quash the whole transaction, and we should have no redress for this outrage committed on the dignity of this country by a government which had insisted on the removal of Sir John Crampton, and had withdrawn the *exequatur* of our consuls on a much smaller pretext. It was remarkable that these men were dismissed in the American uniform, and we had heard that American uniforms were to be seen in other parts of Ireland, even in Dublin. He was not a believer in the existence of any disaffection in Ireland. Disaffection could not go to any great length without some cause for it, and no people had less grievances to complain of than the Irish from the imperial government; Ireland was, without doubt, the freest country in the world, not even excepting Great Britain. A man was free to say or do there pretty much as he pleased, and the only persons who appeared to be under any restraint were the police. All men of education and intelligence put a proper value on this freedom; but, unfortunately, among the lower orders there did prevail some mischievous old traditions. They were always delighted with the idea of secret societies, and many of these secret societies were productive of great harm. Some of them were innocent and harmless, but it was neither innocent nor harmless to spread among the people the notion of a connection with the United States or to permit the distribution of American uniforms. These things ought to be dealt with with a strong hand, not toward our own people so much as toward the government which ventured to take such liberties. He had no hesitation in saying that if the confederates had done one-tenth of what the federals had done, it would have been put a stop to long ago. But the neutrality of her Majesty's government had been from the first a partial neutrality, and in that respect they had not properly maintained the honor of the country. But what he wanted to know now was whether the house might be allowed to see the reports, which no doubt the Irish government must have forwarded on the subject, and the remonstrances which he trusted the secretary of state had addressed to the government of the United States on the subject. The noble marquis concluded by moving, that an humble address be presented to her Majesty for—

"Copies of any reports that may have been received by her Majesty's government, respecting recruiting in Ireland for the North American army."

EARL RUSSELL. My noble friend will excuse me if I do not advert to many of the topics on which he has touched, and deal only with the tangible points of the statement he has made. I do not think it necessary to enter into the reasons why I was in favor of the repeal of the foreign enlistment act in 1823, nor shall I discuss whether the office of lord lieutenant of Ireland is useful or has become obsolete, or whether the conduct of the American government in 1855 was proper or not. As far as I can understand the drift of my noble friend's argument, it is that because the American government acted improperly in 1855, therefore her Majesty's government ought to act

improperly now. But my noble friend must excuse me if I decline to adopt that view. The real question which my noble friend has brought forward is that of foreign enlistment in Ireland. I quite admit that it is an offense against the law and against the amity which the American government is bound to show toward her Majesty's government to commit such acts. Wherever such an offense can be proved, it ought to be prosecuted by her Majesty's government; and it certainly furnishes a subject of complaint against the United States government if it has authorized it. My noble friend has said truly enough that we have complained from time to time that there was a process of recruiting going on in Ireland on behalf of the federal government. Last year I presented papers, correspondence between Mr. Adams and myself, on the subject of British subjects in the federal armies; and those of your lordships who have read that correspondence may remember that our complaints were of a general nature, because we had not evidence of particular cases in which the offense was brought home to any agents of the American government. Mr. Adams on each occasion denied the truth of these allegations, and on one occasion he said that until I had brought it to his notice he did not think there was anybody in this country who could have believed it possible that agents of the United States government were employed, either in England or in Ireland, in enlisting British subjects for the federal armies. With that general allegation, and with that general denial, I could only wait until there was a case in which particular evidence could be produced. In the month of January of this year a person named Pike stated that a person named Finney had gone about enticing men to enlist. It was stated that this Finney had invited men to go out and get good wages in the United States, and afterward told them that they would get much larger sums of money if they would enlist as soldiers in the United States army. The information received at the Home Office was referred to the Irish government. The matter was investigated, and no evidence except that of this person named Pike could be had; and it was alleged that this man Pike had been engaged by Finney as an assistant, but had not received the reward which he thought sufficient; and that, being excited by that circumstance, he invented this story of the recruiting. It was further alleged that the real object of Finney was to engage men to be employed on railways in the United States. The law officers of the Crown in Ireland investigated the matter, and they were of opinion that if there was no other evidence but that of Pike against this man, that evidence would not be believed, and that consequently there was no chance of a conviction in a court of law. When they gave that opinion, the Home Office here arrived at the conclusion that it was not desirable to institute a prosecution. It must be borne in mind that the United States minister has said, and said with perfect truth, that owing to the great number of men employed in the federal army, and owing to the great number of railway works which are now in course of construction in the United States, there are many railway companies in America which are anxious to obtain men, and ready to pay them high wages. It is very possible that, under these circumstances, some companies may be trying to engage men in Ireland. The Chicago Railway Company is known to have hired men for the purpose of working on their line; and we have information that this person, named Finney, hired a room in Dublin a few days ago, and there engaged a considerable number of young men who are going, or are gone, to the United States. My noble friend must perceive that even although it could be proved that many of those young men are arriving in New York, and tempted by the large bounty offered to them, many enter the army of the United States; yet if they go from this country without any contract to enter the army, if they go for the purpose of obtaining good employment and good wages, and wait till their arrival in New York to decide whether they will be railway laborers or soldiers, there can be no ground for a prosecution under the foreign enlistment act. My noble friend has told us in the most circumstantial manner of a person known to have been engaged, according to his opinion, in the horrid plot of taking men in contravention of the foreign enlistment act, to be employed in the army of the United States. One would have expected that a person with the activity, the patriotism, and the knowledge of law possessed by my noble friend, would have been able to pursue this man to conviction; but there the story ended, my noble friend saying there was no evidence, and that therefore he had dismissed the charge. I have heard of a man in the county or the city of Cork, who was said to have engaged laborers on the promise of a large amount of wages or a large amount of pay; but it appears that he began by asking the persons who were to enter into the contract with him for threepence each, and when he had collected a sufficient number of threepences, he and his comrades went off. That was not a transaction from which the United States gained much. Another case alluded to by my noble friend was that of a man-of-war at Queenstown. Undoubtedly there were a number of men found on board the Kearsarge, a United States man-of-war, who were said to have been engaged as seamen and to have been carried off. On hearing this report I at once wrote a complaint to the minister of the United States in London, informing him of the facts that had reached me, and at the same time telling him that I had heard the consul of the United States had been instrumental in enlisting these men, and expressing a hope that a thorough

inquiry would be made. The minister of the United States wrote to say that, so far as the consul was concerned, he denied all knowledge of such transaction, and his excellency furnished me with a copy of a letter from the captain of the Kearsarge, which is as follows:

" UNITED STATES STEAMER KEARSARGE,
At sea, December 7.

"SIR: A party of men, either by connivance of the crew or otherwise, were concealed on board this vessel on the night of her departure from Queenstown, the 5th ultimo. These men, I learn, were in expectation of being enlisted in the service of the United States after the Kearsarge had proceeded to sea, but found their mistake. To have turned them ashore at Brest would have been to open to them the temptation to enlist on board the Florida. I therefore determined to leave them at Queenstown as soon as it was practicable. You will please notify Admiral Jones that I informed him that no enlistments would be made at Queenstown. I have therefore sent on shore this party, that no charge of subterfuge may be alleged in the premises.

Very respectfully, your obedient servant,

"JNO. A. WINSLOW, *Captain.*

"E. G. EASTMAN, Esq.,
United States Consul, Queenstown."

I do not know that the captain could have behaved otherwise than he did. When we found that these men had been enlisted, her Majesty's government consulted the law advisers of the Crown, and they directed that a prosecution should be instituted; and, as far as I know, the prosecution is going on. A suspicion may arise that the captain was aware that these persons had been enlisted before they went on board; but all I can say is that the captain gives the explanation which I have read for your lordships. At all events, these men are not serving on board the Kearsarge, and therefore, in that case, we have no complaint against the United States government. With regard to the United States consul, that officer denies any knowledge of the matter, and therefore nothing more can be required of him. These are the cases which have occurred in the present year. I quite agree with my noble friend that every case of this kind ought to be watched, and the police in Ireland and the government of Ireland are ready to watch them. I also quite agree with my noble friend that no violation of the foreign enlistment act ought to be permitted without a prosecution, if there is evidence to sustain one; and on that principle her Majesty's government have determined to act. My noble friend has said what he has never been able to prove—that the neutrality of her Majesty's government has not been an impartial neutrality. Well, the United States government are of opinion that, from the very beginning, her Majesty's government have taken a side favorable to the Confederate States, and that allowing the latter belligerent rights, which, they say, induced other nations of Europe to allow them the same rights, was very partial conduct, because it was very favorable to the insurgents. I have always contended against that pretension. We considered that, as the Confederate States comprised so many of the States of North America, were inhabited by so large a population, and contained so much of the wealth that had existed in the United States, our decision was not a partial, but a perfectly impartial decision, founded on the fact that the Confederate States were entitled to belligerent rights. No doubt it may be said, and it has been said, that this advantage has enabled them to derive very considerable supplies, and so enabled them to carry on the war against the federal States. On the other hand, the Confederate States made their complaint with respect to the conduct of her Majesty's government, whom they have all along conceived to be partial, as against them. I must say that, though they are entitled to impartial conduct, they are not entitled to any other conduct at our hands, because, though recruiting for the Confederate States does not take place in this country, as far as we are aware, conscription does take place as regards British subjects residing in the southern States. When we have endeavored to obtain redress for this, we have found that the consuls, who were appointed when all the American States were united, have on a sudden been driven from the Confederate States, and there is no one there who can take up the case of British subjects, who are very frequently forced into the confederate ranks against their own will. This and other hardships are inflicted upon British subjects in the Confederate States, and from the loss of consuls they are not able to make complaints and obtain the redress to which they are entitled. But, my lords, with regard to the whole matter of this war, it has been the determination of her Majesty's government to pursue an impartial neutrality. That course has been steadily pursued. I see no reason myself for our taking part either with the northern States or with the southern; and we are determined to continue to maintain a course of impartial neutrality.

The EARL OF DONOUGHMORE. I think, my lords, we should feel indebted to the noble marquiss for bringing this subject forward. The fact of agents of the United States government having been for a considerable period endeavoring to entice the Irish sub-

jects of her Majesty into the military service of the United States is notorious. I have listened with great attention to the speech just made by the noble earl, and I must say that I never heard the noble earl repudiate the statement of the noble marquis opposite. The noble earl will not say whether he will admit that statement or deny it. Now, I will just ask your lordships to compare the conduct of the government in this matter with the course taken by them in reference to the rams at Birkenhead, which it was alleged had been built for the Confederate States. The noble earl mentioned one case in which there appeared to be some prospect of prosecuting to conviction, but as the law officers of the Crown in Ireland had expressed their opinion that there was not sufficient evidence to convict, the noble earl, or rather the Home Office, retired from the prosecution. But I will ask the noble earl whether, when, on the 3d of September last, he ordered the rams to be detained, he had received the opinion of the law officers of the Crown here that there was sufficient evidence to prove a contravention of the foreign enlistment act? If he had not received that opinion, the noble earl's course of action was founded on principles entirely different from those he had pursued with regard to what has taken place in Ireland. And this is what the noble earl calls impartial neutrality. No sensible man would consider the principles which influenced the noble earl in both cases as similar. Now, what the noble earl's motives may be in the matter I cannot tell. I will not say what his reasons are for neglecting this important subject, for refusing to exert the vigilance and the power of the government to protect the poor people of Ireland from being tempted from their homes to die on a foreign soil in a quarrel not their own. Are those reasons to be found in the fact that they are poor Irish only, and that he has no sympathy for them? The noble earl denies the imputation. But will he deny that, if the same attempt had been made to enlist Englishmen, the authority of the government would not have been very quickly exercised to protect them. There is a society in Ireland which has been often mentioned in the public newspapers, and I wish to obtain some information from her Majesty's government as to whether their attention is directed to the proceedings of that society. I allude to the society called the Fenian Brotherhood. I do not know the meaning of the words. Perhaps the noble lord opposite can explain it. The object of this society is to recruit for the American army in Ireland, and to promote a feeling of disaffection to the British Crown; and it holds out a vague hope to its members that, when the American war is finished, the federal army will turn its arms against this country. The proceedings of this society are so contemptible it would be ridiculous and absurd to discuss them seriously. Of course, no man of any sense or prudence could think that any danger could arise to this kingdom from their idle vaporing. "Cannot you let it alone," was a favorite maxim of a former colleague of noble lords opposite, and perhaps the foreign secretary would do well sometimes to remember it; but this principle ought not to be applied to the Fenian society. Contemptible as it is at present, it may at last become inconvenient to the government and difficult to be put down. So long as the members confine themselves to mere words and to ridiculous articles in certain newspapers, I concur with her Majesty's government in the wisdom of ignoring them. But when these proceedings assume the phase of enlisting men for the armies of a foreign government, when they commence drilling men in Ireland for the service of the United States government, I think not for the interests of her Majesty's government, because it is utterly impossible that any such result as is expected by the members can ever arise, but in mercy to the poor deluded men themselves, that it is the duty of the government to come forward and put a stop to these proceedings. It is notorious that the Fenian Brotherhood have enlisted a large number of the Irish people in the interest of America; that some of the members walk openly about the streets in the American uniform. It is, therefore, time for her Majesty's government to act in the matter, and by a strong hand to suppress this ridiculous movement. If they do not take action in time, they may, perhaps, in the end, be driven to shed the blood of their own people.

EARL GRANVILLE. My Lords, I have failed entirely to make out, from the speech of the noble earl, any case against her Majesty's government. Upon the question of neutrality, as your lordships are aware, both the North and the South were constantly bringing accusations against the government for being partial and showing favor to one side or the other, and these charges are also made in this country by persons who sympathize with the one or the other. It is quite clear that any person who endeavors to remain neutral between two opponents will be open to such charges, and exactly the same attacks have been made against the government by those who in this country sympathize with one or other of the belligerents. But these accusations are, in fact, the best proof that the government have been actuated by a sincere wish to maintain a fair and impartial position between the two contending parties. The noble lord taunted the government with want of courage in dealing with these enlistments, which he said were now quite notorious. Well, but if they are notorious, why does not the noble earl offer some specific proof of their existence? The government have given to the police instructions of the most positive nature to make inquiries on this subject. And yet the only cases of which we have knowledge are of the most trumpety char-

acter. In one case a man was said to have engaged a clerk and an officer for this purpose, but he left without even paying the unfortunate clerk. Another case attracted great attention on the part of the government. A factor engaged several hundreds of men to work upon an American railway. This was said to be merely a colorable pretext, and the men, we were told, were really recruits for the service of the United States. The government immediately made the most rigid inquiry, and the factor who was charged with this offense came to the office of the chief secretary, and proved there by incontestable documentary evidence that those persons were really engaged to work upon the railway; that the railway company were suffering from a dearth of labor; and that these supposed recruits were engaged *bona fide* to supply this want. Does the noble earl opposite think it would have been proper on the part of the government to have interposed obstacles in the way of a legitimate transaction of that kind? The noble earl alludes to persons who go about wearing the American uniform. I have seen persons wearing the French and Italian and many other different uniforms walking about the streets of the metropolis, but it would never occur to any of your lordships that this was a fact which required the action of the government. What sort of action, then, is it that the noble earl wants? There was only one case which appeared, on inquiry, to bear out the charge of enlistment for the military service of the United States. The government submitted the whole evidence to the law officers of the Crown in Ireland, and their distinct advice was that the evidence was not sufficient to lead to a conviction. Now, would it have been courage, or would it have been simplicity, on the part of the government to have disregarded that advice and to have taken the law into their own hands? If noble lords are of opinion that the government ought to have done more and to have gone further, I really think they ought to have produced some better information than the government possesses to show that recruiting is really carried on in Ireland by the United States government.

THE EARL OF DERRY. I wish to remind my noble friend who has just sat down, that he has omitted to answer one point—whether her Majesty's government has received, through the police, any information in regard to the fact that persons are now being drilled and taught military exercises in Dublin, Cork, and other large cities; and, if so, whether they had taken any steps in the matter?

EARL GRANVILLE could say nothing as to the etymology of the word "Fenian," but the attention of the police had been directed to the military drilling which was said to be going on in Ireland. He could not at that moment give any detailed information on the subject, but this he could say—that the police had come to the same conclusion as that which seemed to have been arrived at by many of their lordships—namely, that the organization was a perfectly contemptible one.

THE MARQUIS OF CLANRICARDE, in reply, said he would withdraw his motion; but in doing so, could not allow to rest upon himself and upon his noble friend opposite, (the Earl of Donoughmore,) the reproach which was cast upon them by the noble lords who sat upon the treasury bench, that knowing cases in which there had been breaches of the foreign enlistment act, and the law of the land, they did not prosecute and bring to conviction the offenders. It was evident that the government in this house, when they cast this reproach, were not aware of the position to which the magistrates of Ireland were reduced, who were not allowed to search into matters which concerned the peace of the country. The police took such inquiries into their own hands, and gave no information about them to the unpaid magistrates, but brought whatever they could find out to the stipendiary magistrate, whom alone they obeyed. The government had ceased to consult persons of property and influence in the country. A noble friend, a lord lieutenant of a county, told him that the men who had served in the militia of that county had been drawn away, and were now serving in the United States Army; and that he had not heard a word on the subject either from the government or the military authorities.

Motion (by leave of the house) withdrawn. House adjourned.

APPENDIX No. XIII.

PROCEEDINGS BEFORE THE CROWN COURT AT CORK IN THE CASE OF THE MEN RECEIVED ON BOARD THE UNITED STATES STEAMER KEAR- SARGE AT QUEENSTOWN.*

[Extract from the Dublin Evening Mail, of March 16, 1864.]

(From our own correspondent.)

CROWN COURT.—Before Mr. Justice Keogh.

THE KEARSARGE.

CORK, *Monday, March 14.*

John Sullivan, John Murphy, Edward Pyburn, Thomas, Murphy, Dennis Leary, and Daniel O'Connell, were indicted for having, on the 4th November, 1863, agreed to enter service as sailors on board a vessel of war of the United States of America, called the Kearsarge, contrary to the provisions of the foreign enlistment act.

The right honorable the attorney general, M. P., Sir Colman O'Loughlin, Q. C., M. P., C. R. Barry, Q. C., James O'Hea, George Waters, and J. C. Neligan, appeared for the Crown. Mr. J. C. Coffey, instructed by Mr. C. P. Wallis, appeared to watch the proceedings on behalf of the Confederate States of America. The prisoners were undefended.

They were all young men of very respectable appearance; and wore the naval dress of American sailors.

They pleaded "guilty," one of them saying that they did not think it was any harm.

The attorney general said that the object of his attendance had been to some extent accomplished. The traversers had wisely submitted, for the evidence against them was conclusive. The law had been vindicated in the first and only case in which it had been possible to prove an infringement of the foreign enlistment act in Ireland; and he took that opportunity of announcing to the people the nature of that statute, the mischief which it aimed to prevent, and the determination of the executive to enforce its provisions. The Act 29 George III, cap. 69, presented in the briefest untechnical language, forbade any natural-born subject of the Queen, without her express authority, to enlist, or to induce others to enlist, in any foreign service, military or naval, under pain of fine and imprisonment, at the discretion of the court. The policy of this law was manifestly wise and just. It tended to maintain amity throughout the great family of civilized nations, and it had the highest sanction of morality and religion, in forbidding men to shed the blood of their fellow-creatures in conflicts with which they had no concern, for the wretched hire of the mercenary, without the pretext of self-defense or the approval of legitimate authority. The circumstances of this country made the enforcement of the statute especially necessary to Ireland. He lamented the vast emigration which had been produced by much suffering in latter years, encouraged by increased facilities of transit, and the larger rewards of labor beyond the seas, and continued by the family attachment which induced those who had gone to help their friends to follow, and those who remained to desire reunion with the objects of their old affections. But, lament it as we might, we could not prevent the free egress of our people, save when it was made for purposes condemned by the law. A fearful struggle was convulsing the western continent. That struggle commanded our anxious attention, but we had no right to decide between the combatants. The wisest and best among us held opposing views upon the merits of the contending causes, and those who administered the law were bound to see that, so far as possible, the subjects of this realm should not meddle with it to their own destruction, and the interruption of our friendly relations with foreign powers. When we thought of the blood which had been shed by Irishmen in that terrible contest, the necessity for the discharge of that duty became more painfully apparent. They had been slaughtered

* Transmitted with dispatch No. 690, from Mr. Adams to Mr. Seward, March 18, 1864, (see vol. II, p. 440,) and referred to note from Earl Russell to Mr. Adams, March 31, 1864, (see vol. II, p. 442.)

wholesale, it was said to the number of 200,000. Was it not dreadful that men of our race should be arrayed in both the contending armies, and butcher each other in a ruthless controversy which was not theirs, for objects with which their country was not identified? If it were true, as has been stated, that in December last there were in New York 108,911 persons born in Ireland in a state of pauperism, of whom 65,500 were women, it was surely impossible to give more appalling proof of the wretchedness which had been born of this war, or more persuasive argument of the propriety of making an effort to save our people from such calamity. Not merely, therefore, for the legal maintenance of international relations, but also for the well-being of the Irish community, the executive government would put the law in force with perfect impartiality, whether the attempt at enlistment should be made for the South or the North. This was the first case in which it had been found possible to prosecute, and the traversers having, perhaps, erred in ignorance of the law, and having shown a proper feeling in submission, would, he had no doubt, be dealt with leniently by the court. But hereafter, should any attempt be made to evade or defy the law, all who might have concern in it, and especially any who might be engaged as agents in inducing others to enlist, would be without excuse, and should be without mercy.

His lordship asked the attorney-general whether he pressed for any punishment. He did not wish to be misunderstood as suggesting any course. He would offer no suggestion whatever.

THE ATTORNEY GENERAL. I quite understand your lordship. I accept the responsibility, and say at once that, considering this is the very first occasion on which the statute has been authoritatively promulgated in Ireland—the high probability that the traversers were, as they alleged, ignorant of its existence—the probability, also, that they acted from straitened circumstances, and with a view to better their condition—the excellent characters which, as the resident magistrate informs me, they have always borne, and the fact that those by whom they were induced to act illegally are not amenable to justice—I think I exercise a sound discretion in stating to the court that I do not press for punishment. I believe every purpose of this trial and of my presence here will be substantially attained if the prisoners are bound over to appear for judgment when called on. The country will know what the law is, and that it will be stringently enforced.

His lordship said the attorney general had taken a bold course. He had taken the whole responsibility on himself—a responsibility which he (Judge Keogh) was satisfied the attorney general was able, as he always was, to sustain. The course which had been taken was also a wise one. The act on which the prosecution was grounded was one of the wisest, in his opinion, now remaining on our statute book, and the policy of the law had been most clearly stated by the attorney general in language which he (the learned judge) could not attempt to imitate, and with eloquence which he had seldom heard surpassed. It was an act passed so long ago as the year 1819, and it provided that any person who should directly or indirectly violate that act should be liable to a heavy fine and imprisonment. Here we had those young men entering the service of the United States, a power at peace with great Britain, at Queenstown, in the grossest violation of all amicable relations which ought to exist between friendly powers. The subjects of this realm were taken by officers of that navy. They well knew that they were violating the municipal laws of this country in taking the subjects of these realms on board that ship. He regretted exceedingly that, instead of trying these young men, who he could well believe were ignorant of the act, influenced, perhaps, by want of employment, perhaps by a desire for adventure, perhaps by a desire to see other lands, he was not trying the guilty persons who had induced them to violate the law. It was no imputation on those who administered the law that those parties were not here, as we are aware that the vessel had gone across the sea. He concurred in all that had been so eloquently said by the attorney general as to the policy of the law, and he concurred in the prudence and wisdom of every word of the advice which he had given to our countrymen to hold aloof from that internecine conflict in which our people in the North and South, many of them natural-born subjects of this country, were enlisted to fight in a cause in which they had no concern. Hundreds and thousands of them had fallen, "unwept, unhonored, and unsung." Their bones were bleaching under a foreign sun, where they had been entrapped by the hope of reward and by enormous promises. Whether these promises would be fulfilled they would see in time. There they had gone down to their graves, after hard-fought fields, upon which they had exposed their valiant breasts for men who cared not whether they lived or died, provided they could only carry out their own selfish objects. (Applause.) He had other cause of regret in this case. He saw there those young men, whose countenances spoke no guilt, no crime, and he did think it was a subject of deep regret that the adventurous spirit they displayed was not availed of in this country more than it was. Questions of public policy were not for the bench, but one might even here express regret that that magnificent harbor, second to none in the world, placed in the high-road of all nations, the entrance gate of those seas which led to the capital of the empire, to her arsenals, to her ports for her navy, to the ports

of her mercantile marine—that it was not more availed of for the purpose of teaching, by practical visible examples, that under no flag in the world are such opportunities presented for the brave and the adventurous as that which floats over the British empire; that no flag has ever floated upon the ocean beneath which so many deeds of glory have been performed, as that which waves over the subjects of her Majesty. (Applause.) He could wish, and he did hope, that even they might live to see the day when those waters would not lie without a burden, but that there might arise on the banks of that great bay arsenals such as existed in other places, and that the expenditure, to a certain degree, of both countries might take place here, and that the adventure and enterprise of such men as he now saw before him might be enlisted in the cause of our own sovereign, and not directed to the army or fleet of any foreign power in the world. (Loud applause.) He trusted that the warning of the attorney general would be understood by every one, and that many would leave that place with a better opinion of British law and justice, especially when administered by men such as the distinguished gentleman he now saw before him.

The prisoners then entered into recognizances in 20*l.* each, to come up for judgment if called on, and were discharged.

APPENDIX No. XIV.

REPORT OF TRIALS IN ENGLAND OF VARIOUS PARTIES FOR VIOLATION OF THE FOREIGN ENLISTMENT ACT, IN RECRUITING FOR THE REBEL VESSELS.

CASE OF JONES AND HIGHATT.*

[From the Liverpool Courier, January 16, 1864.]

IMPORTANT PROSECUTION BY THE TREASURY—COMMITTAL OF THE ACCUSED.

John Jones and Robert Highatt, ship-store dealers and chandlers, carrying on business at 28 Chapel street, Liverpool, and John Wilding, a clerk in their employment, were summoned before Mr. Raffles, stipendiary magistrate, yesterday morning, to answer the following charge: "Whereas information hath this day been laid before me, the undersigned, one of her Majesty's justices of the peace, of and acting in and for the borough of Liverpool, against you, for that you, the said John Jones and Thomas Highatt, did, in March, 1863, in the United Kingdom of Great Britain and Ireland, to wit, in Liverpool and elsewhere, endeavor to procure John Stanley, Francis Glassbrook, (otherwise called Francis Rivers,) and Benjamin Conolly, one or more of them, to be employed or engaged in the sea service of the Confederate States of America, contrary to the prohibition contained in the statute 59 George III, c. 69; and that you, the said John Jones and Thomas Highatt and John Wilding, did, in November, 1863, in Liverpool, in the said United Kingdom, endeavor to procure the said Francis Glassbrook and Benjamin Conolly, one or more of them, to go and embark from Liverpool aforesaid for the purpose of being engaged or employed as aforesaid, contrary to the said statute; and that you the said John Jones did, in April, 1863, on board a certain British ship called the Japan, endeavor to procure the said John Stanley, Francis Glassbrook, and Benjamin Conolly, one or more of them, to be employed and engaged as aforesaid, contrary to the said statute; and that you the said John Jones, Thomas Highatt, John Wilding, and others did, in 1863, conspire to procure the said John Stanley, Francis Glassbrook, Benjamin Conolly, and others, to be employed and engaged as aforesaid, contrary to the said statute; these are therefore to command you in her Majesty's name to be and appear on Friday, the 15th day of January instant, at twelve o'clock, at the police-office, Dale street, within the borough of Liverpool, before me or such justice or justices of the peace acting in and for the said borough as may then be there, to answer to the said information and to be further dealt with according to law." This summons was signed by Joseph Hubback. When the defendants' names were called out in court only Mr. Highatt answered, and it was then discovered that in his case the summons was not properly served, it being taken out against a Thomas, instead of Robert, Highatt. Mr. Vernon Lushington, barrister, who was instructed by Messrs. Bateson and Robinson, the law officers of the Crown, to conduct the prosecution, asked to have the summons altered. This was acceded to by Mr. Deighton, barrister, who defended Mr. Highatt.

Mr. LUSHINGTON then stated his intention of proceeding with the case against the whole of the defendants.

Mr. DEIGHTON, however, objected. He should insist upon the case of Highatt being proceeded with at once.

Mr. LUSHINGTON said he should go on with the case against Highatt, and then ask for a warrant for the apprehension of the other two defendants.

Mr. RAFFLES said that in that case they would have to go over the whole of the evidence again.

Mr. DEIGHTON must urge upon the bench to go into the case against Mr. Highatt. There was no case against him at all as far as his instructions went. He must therefore request that the matter be now gone into. He thought the magistrate would say that if the case was proceeded with against Mr. Highatt, supposing what he imagined to be the case which his learned friend supposed he could make, it would be quite inde-

* Referred to under the head of "Enforcement of Neutrality," subdivision "Prosecution of Rebel Agents," vol. II, pp. 464-479.

pendent of any case that would be brought against any of the other parties. Therefore there must not be any delay. Two of the defendants were partners in a firm in Liverpool, and Mr. Lushington must know that an offense committed by one partner could not affect the other.

Mr. LUSHINGTON said he was quite prepared to go into the case against Highatt. He then proceeded to state the case. He said he appeared there that day instructed by Messrs. Bateson and Robinson, the solicitors to her Majesty's treasury, to prosecute the defendant, Robert Highatt, for various offenses, which were mentioned in the second section of the foreign enlistment act. The offense which he charged him with being guilty of was in aiding and abetting certain seamen, subjects of her Majesty, with enlisting and being employed on board the notorious confederate steamer called the Georgia. As the bench had already heard, summonses had been also issued against certain others, namely, Mr. John Jones and Mr. Thomas Wilding, who were not forthcoming. Now the defendant, Robert Highatt, was a member of the firm of Jones and Co. That firm consists of Mr. Thomas Bold, Mr. John Jones, and a third member, Mr. Robert Highatt. Wilding, the other defendant, who should have been in court that day, was, he believed, a clerk in their office. Now he proposed, in the first instance, to call the attention of the magistrate to the statute, and then afterward to state the facts of the case, upon which he should ask to have the defendants committed for trial. He did not propose to read the section, because it was in truth unreadable, and was intended for private study and not for reading. (Laughter.) No doubt it would require the consideration of the highest members of the profession in its construction. He should, therefore, merely state the substance of the section; it consisted of four parts. The first part made it penal in any subject of her Majesty to enlist as a soldier, or agree to be such, or to serve as a soldier in the service of any foreign prince, state, potentate, colony, or province. The second part made it penal for any subject of her Majesty to enter the sea service of any foreign state; and he must call the particular attention of the court to the following words: "Shall serve in and on board any ship or vessel of war, or intended to be used for any warlike purposes in the service of, or for, or under, or in aid of any foreign power." The third part of the second section made it penal in any subject of her Majesty to go, or agree to go, to any foreign state to enlist or serve, and so on; and in every case it was provided that it was not necessary that any enlisting money, or pay, or reward should be paid or received by such persons. Now he came to the fourth part of the section—the most important part: "If any person whatever, within the United Kingdom of Great Britain and Ireland, or in any part of her Majesty's dominions elsewhere, or in any country, colony, or settlement, island, or place, belonging to or subject to her Majesty, shall lure, retain, engage, or procure any person or persons whatever to enlist, or to enter or engage to enlist, or to serve or to be employed in any such service or employment as aforesaid, as a soldier or sailor for any foreign prince, or to go or to agree to go or embark from any part of her Majesty's dominions for the purpose or with intent to be so enlisted, engaged or employed; in any or either of such cases, every person so offending shall be deemed guilty of a misdemeanor, and upon being convicted thereof shall be punishable by fine and imprisonment, or either of them, at the discretion of the court before which such offender shall be convicted." He had to rely upon this part of the section. The learned gentleman then detailed the facts of the case, which will be found in the subjoined evidence, and proceeded to say that the acts of which the defendants were charged were contrary to the provisions of international laws, upon which the interests of all great states rested, and especially the existence of the smaller states; they were also against the objects of neutrality, and against the provisions of the foreign enlistment act, which declared in the preamble that "whereas the enlistment or engagement of her Majesty's subjects to serve in war in foreign service without her Majesty's license, and the fitting out and equipping and arming of vessels by her Majesty's subjects without her Majesty's license for warlike operations in the dominions or territories of any foreign prince, state, potentate, or person exercising or assuming to exercise the powers of government in any foreign country, province, or part of any province, or against the ships or merchandise of any foreign prince, state, potentate, or person as aforesaid, or their subjects, may be prejudicial to, and tend to endanger, the peace and welfare of this kingdom." The only question was whether the transactions he was about to prove did not bring the defendant within the grip of the enactment in this statute. As he had already stated, this prosecution had been directed by the law officers for the Crown, and the ultimate result of it must depend upon the most careful scrutiny of this very difficult and obscure act, the construction of which would undoubtedly require the assistance of the greatest intellect in the profession. But it would not be necessary for him to go into all the winding recesses of this act; it would be sufficient if the facts he should prove would be strong enough in the judgment of the bench to send the case for trial at the assizes. The worthy magistrate must be anxious, as every loyal subject of the country was, that the defendants should be made answerable for their conduct, which was so contrary to the provisions of the act of Parliament, and so dangerous to the best interests of the country.

Mr. Lushington then read a document which, after showing that Mr. Thomas Bold was formerly the owner of the steamer, read as follows: "Vessel sold to a foreigner by the owner. Dated 23d January, 1863. Certificate of the register delivered up and canceled 23d June, 1863. Register closed."

Mr. DEIGHTON objected to this being taken as evidence.

Mr. RAFFLES replied that the court would receive it *de bene esse* at present.

Mr. Lushington next produced the articles signed by the crew of the Japan. They were as follows: "On a voyage from Greenock to Singapore and Hong Kong, with liberty to call at any port or ports on the way if required, and after arrival there to be employed in trading to the principal ports in the China and India seas; the voyage to be completed within two years."

Mr. DEIGHTON submitted that this did not at all affect Mr. Highatt.

Mr. Lushington then proceeded to produce evidence.

BENJAMIN CONOLLY was then called. He deposed: I am a coal trimmer. In March last I shipped at the Sailors' Home for the Japan. Barnes was present. To Mr. Deighton: Mr. Highatt was not present.

Mr. DEIGHTON. Then say nothing of what took place in his absence.

WITNESS. Something was said about the character of the ship. [The articles dated 27th March were produced.] Having signed the articles I went to the office of Jones and Co., Chapel street. I think the gentleman now in court (the cashier) was there. To the best of my belief it was him. He (Mr. Highatt) took my clothes and said it would be all right. He told me to come on the next day and he would give me my advance note. I went with two more men and saw the boy, and he gave me an advance note for £2. I got directions what to do from the boy. Did not see the defendant. That evening I got the note cashed and got some clothes. On Monday night following I went down to the Greenock steamer. I can't give the exact date. I saw Mr. Highatt, to the best of my belief, standing on the gangway, and he told me to give my number. Sailed for Greenock that night, and reached there on the Tuesday, (31st.) Then went on board the Japan. I remember three or four days afterward the Japan sailed. Captain Hancock or Hedgecock was master. After being out three or four days we met a steamer, took her in tow off the French coast, and took her into Brest, where both anchored. The small steamer at day lay off a good distance, and at night we drew up alongside.

Mr. DEIGHTON: This is out of the jurisdiction of the court. We are now at Brest.

Mr. RAFFLES. I shall receive the evidence, and see afterward whether it connects the defendant.

WITNESS. We took guns and ammunition from the small steamer. I saw Mr. Jones there. He was taking a very "clever" part.

Mr. DEIGHTON. We are not responsible for Mr. Jones's acts.

Mr. LUSHINGTON. It shows conspiracy.

WITNESS, (to the court.) I never saw Mr. Highatt except in Liverpool.

Examination continued: Next day Mr. Jones and Captain (Lieutenant) Maury came on board. Captain Maury put on uniform after coming on board. We were all wanting to go back to England in the small steamer—the boatswain and all hands.

Mr. DEIGHTON. We have now got to the boatswain; what has he to do with Mr. Highatt?

Mr. RAFFLES. It is all part of one transaction. I must take the evidence.

Examination continued: All hands were called aft, and Captain Maury said he was going to hoist the confederate flag, and would make us all very comfortable; he would give us higher wages than we had shipped for at Liverpool. I asked him about the prize money. Mr. Jones asked me to go. He asked me what service I had been in. I said in the Black Prince, Royal navy. He said I was just the one they wanted, and it was a fine thing for a young man. I said I did not want to go. Afterward, in the cabin, I signed a sheet of paper, and got £10. Captain Maury, Mr. Jones, Mr. Ingram, the sailing master, and the purser, were there. Mr. Jones asked me for the £10, and said he would see it all right to my parents, and arrange for me to leave half pay. I gave him £9, but said nothing about half pay. A number of others also signed. I was to have £4 10s. per month. The captain said I should have the same as the Alabama.

Mr. DEIGHTON. He is now enlisted. We have nothing to do with what he does afterward.

Mr. RAFFLES said it would not rest with him to decide; he would take the evidence.

Examination continued: We sailed the same night, giving three cheers. We captured several federal ships carrying the stars and stripes. The first was the Dictator. There was the Constitution and Bold Hunter, and others. We cruised to the Cape of Good Hope. In the autumn we returned to France, and went into Cherbourg. I obtained leave there, came to Liverpool, and went to Jones's office. I came home on the Saturday night and went to the office on Monday. It was toward the end of November. Can't say the day of the month. I received money from the purser to come home. I had before received £4 10s. and £3 10s. at the Cape of Good Hope. The advance I received in Liverpool was taken as part of the wages, and there was a row.

The sailors agreed; all the firemen objected, and we were going to be punished. I went to the office of Jones and Company, from what I was told on board. I saw Mr. Highatt and Mr. Jones. Mr. Jones said he did not know me. I said he did not treat me that way in France. Mr. Jones said, "Don't make a noise. I dare say something will be done for you." The defendant (Highatt) was writing at a desk, and must have heard what was said. I told Mr. Highatt I was one of the Georgia's men, and would show him my citizen paper. On board we had to kiss a book, and then got a paper from Captain Maury. I showed him my paper, and Highatt looked at it, and said, "Yes, this is Maury's writing. We will send a telegram to the ship for you." He told me to call next day, and he would give the answer. I thanked him and went out. I called next on the Saturday in that week. I saw Mr. Highatt again. I asked him whether there was any news for me yet. He said "No," and I went out. I called again at the ending of the week after, and saw Mr. Highatt again. On former occasions I told him I wanted to get back to the Georgia again.

Mr. RAFFLES. Then you had got to like it?

WITNESS. No, I liked my money, but I did not like the ship. We were very well treated on board, but I got afraid on account of the Queen's proclamation. (Laughter.)

Examination continued: Mr. Highatt afterward asked us if we were the Florida's men. We said, "No, the Georgia's." The boatswain then came in—Mr. Malton. Mr. Highatt ordered us to look up all the men and go on board the Balbec, the Havre steamer. I asked for money. He would only give me £3 for the passage to Cherbourg. I went down as appointed with others, and saw one of Mr. Jones's clerks, who gave me £3 and got me to sign for it. Thought better of it, and did not go to Havre. I ran away with the £3 because there was more than that due to me on board the Georgia.

To the court. I last saw Mr. Jones when the small steamer was with us at Brest, on board the Georgia; but I saw him after I returned to Liverpool.

Cross-examined by Mr. DEIGHTON: Were you one of the men on board the Kearsarge, (federal gunboat that shipped men at Cork?) No answer. I was previously in the English navy. I know there is an American consul in Liverpool. I couldn't point out the man. Won't swear I have not had an interview with him. I was brought before a gentleman in Water street by Mr. Maguire. All I know of Mr. Maguire is that he is a gentleman. Don't know his business—don't know properly. I was introduced by a shipmate—Francis Glassbrook. Mr. Maguire took me to an office which had "American consul" on the door. Never saw Maguire before. He gave me my wages, £1 19s. 4d. per week.

Mr. RAFFLES. What was that for?

WITNESS. I don't know. (Laughter.)

Mr. DEIGHTON. Did you never know what you got your wages for?

WITNESS. For talking and making out a statement. (Laughter.) That was to various gentlemen—to Mr. Taylor, at Messrs. Squarey and Duncan's, and at Mr. Bateson's. Mr. Maguire took me there a fortnight afterward. They treated me very kindly at the consul's—gave me a chair and made me comfortable. Mr. Maguire introduced me as something like a gentleman who could give valuable information. (Laughter.) I expect to get my £1 19s. 2d. when I go out from court to-day. I don't know how long I am to get it. Have received it for eight or nine weeks. Two or three days after my arrival in Liverpool I was introduced to Maguire; the day after I was at Jones's. I told him what had taken place, but can't remember whether he told me to go again. Won't swear he did not. He told me to look after men going to the Georgia; to look after Jones's to see whether they were sending any men from England.

Mr. DEIGHTON. In short, you were hired as a spy?

WITNESS. No, sir.

Mr. DEIGHTON. Something very like it, I think.

WITNESS. I did not at Maguire's request take a stranger to Jones's with me. A man was going that way and he went with me. When I got my £3 and ran away with it, Mr. Maguire was with me. I told him I was going to have my £3. He said he would see I did not go on board the Georgia. (Laughter.) Since my introduction to Mr. Maguire I have served him as my master. Four others of the crew did the same. Among them were Stanley and Glassbrook. He pays me the same wages as I received on board, and I have no desire to leave him. (Laughter.) I went several times to Mr. Jones's. Remembered seeing Mr. Highatt at Mr. Jones's about the end of December. About two weeks since Mr. Jones wanted me to ship in a vessel for Bombay. Don't recollect asking Mr. Highatt to get me on board a confederate vessel. Every time I went to the office it was added to the statement. Mr. Maguire did not wait for me, but I asked to go back to Maguire's and tell him what I had heard. Do not remember Mr. Highatt telling me it would be illegal for him to get me on board a confederate vessel, and that the confederate was a losing cause, and I should be a fool if I joined one. Mr. Jones advised me to not to join a confederate vessel. He called three of us into his private office and did this. Did not remember going to the office two or three days after that. When Mr. Jones advised me I told him he had altered his opinion since I last saw him in France. Was never ordered out of the office. Cannot swear that

when I went on board the steamer to go to Greenock it was Mr. Highatt I saw on board. I cannot properly swear that I saw him until I came back to Liverpool. He did not go to France. As soon as the confederate flag was hoisted Mr. Jones left the ship, and took the men with him who refused to proceed in her. I could have come away had I liked.

Re-examined: To the very best of my belief I saw Mr. Highatt at Mr. Jones's office when I first called there.

Mr. LUSHINGTON said he had several witnesses to call, who would give precisely similar evidence to the last, and he suggested to the magistrate whether it was desirable to call them. If Mr. Raffles was of opinion that he had proved his case, he should save the time of the court by closing it at once so far as the prosecution was concerned.

Mr. RAFFLES said he should not like to express any opinion until Mr. Lushington had stated that he had closed his case. He was quite willing to hear any evidence that was to be produced.

Mr. Lushington then proceeded with the case, and called—

JOHN STANLEY, a ship cooper, who gave precisely similar evidence to the last witness. He swore positively, however, to the defendant Highatt being on board the steamer by which the hands for the Japan were sent from Liverpool to Greenock. He was standing on the gangway superintending their arrival on board. The numbers were called out, and each man had to call his number and show his ticket. At Brest, Captain Maury said the Japan was going to sail under a different flag, and would be called the Georgia. He said each seaman should have £4 10s. per month and £10 bounty, and witness should have £5 per month and £10 bounty. Witness received the £10 from the purser, which Mr. Jones got from him to give to his wife and family. The Georgia sailed from Brest under the confederate flag, and took and burnt federal American vessels. Witness was born at Manchester of Irish parents. On the Georgia returning to Brest, witness got twenty-four hours' leave, and made the best of his way to Liverpool. Came home to his family. Afterward went to Jones's office. Saw Mr. Highatt there, but he would not speak to witness. Saw Mr. Jones outside; told him he had come very short of money, and that if he would give him some for his wife and family, he would go back to the ship. Did not receive any money from him on that occasion. Mr. Jones asked him to look after the last witness and Glassbrook, as they had got money from him, and had not gone back to the ship. Could not remember whether defendant Highatt was present then.

Cross-examined: I have been at the American consul's two or three times. I went there two or three days after coming to Liverpool. A young man named Gallahan took me first. He may have a curious name, but he is of most respectable parents. (Roars of laughter.) His father is an agent and collects rents. He is respectable, that is all I know, and lives in our street. (Laughter.) Gallahan himself is foreman at a soapery, and an agent. I was received very kindly at the American consul's; I was treated better than in the service where I risked my life. (Laughter.) I told the consul I was from the Georgia, and left because I was ill-treated, and only got a sovereign for twenty-four hours' leave. I dare say you know what I was told to do. (Laughter.) I was to come here and tell the truth. (Laughter.)

Mr. DEIGHTON. What do you get paid?

Witness. Am I to tell that?

Mr. RAFFLES. Yes.

Witness. Well, I get £1 19s. 4d. a week.

Mr. DEIGHTON. You get that too, do you? (Laughter.)

Witness. I am not acting under Maguire.

Mr. DEIGHTON. Who pays you?

Witness. Well, I get paid. (Laughter.) It was only my conscience that led me to go to Jones's office. (Laughter.)

Mr. DEIGHTON. I should think it was conscience money. (Laughter.)

Witness. I said it was very curious that I could not get my money on my advance note, and that other men could.

FRANCIS GLASSBROOK was then called:

Mr. LUSHINGTON. It is the same story, sir.

Witness. I am living at 10 Coburg street. I was born at Cork. I signed articles for the Japan in March last under the name of Frank Rimmers; I am known by that name; the reason I took that name was that I ran away from my ship once and had to change my name; I am on the Royal Naval Reserve as Frank Rimmers; my proper name is Frank Glassbrook. Got my £3 10s. on my advance note at Jones's office. Did not see Mr. Highatt there; I saw him at the steamer by which we went to Greenock; he was superintending the men going on board. I did not see Mr. Jones at Greenock; he was not there to my knowledge. I saw him on the small steamer at Brest; he was there while the cases of ammunition were shipped on the Japan; he was alongside Captain Maury when the hands were called aft for volunteers, and in the cabin afterward. I gave him my bounty money. Witness then gave evidence similar to that already deposed to. On returning to Liverpool he went to Jones's office. Mr.

Jones said he would pay him when he went back to the ship. Saw defendant Highatt there on one occasion. Conolly was with witness, and Highatt asked if they were Florida men. They said no, they were from the Georgia. Highatt said he had word for them. Spoke to Highatt about his half-pay. He was told to get his wife's signature to the half-pay note. His wife was ill at home at the time and he went and got her signature, and then received the money. Afterward went down to the Havre steamer. A man named Frank Barrow introduced him to a young man who, he said, was a clerk to Jones. The young man paid him \$3. Witness took the money, but did not go to Cherbourg. Had seen Jones since. He offered witness a ship, but witness would not take a ship.

Cross-examined by Mr. DEIGHTON: Am not now in the naval reserve. My name was taken off two months since for entering the confederate service. I know the American consul's office—almost every one going to sea knows it. (Laughter.) I decline to answer whether I have been there.

Mr. RAFFLES. You must answer.

Cross-examination continued: No one has instructed me not to answer these questions. Well, I have been once to the American consul's. (Laughter.) Mr. Maguire took me there. Mr. Maguire has been a superintendent of police. Don't know what he is now. I was introduced as Mr. Glassbrook. The consul asked me had I been in the confederate service. I said I had, in the Georgia. He asked me would I like to stop ashore. I said I would. He said he would pay me the same as I got before. He did not say what it was for. I supposed at first it was to keep me from going into the confederate service. I was to have £1 19s. 4d. a week. Don't know how long I am to be employed at that rate. If it ceases I shall go to sea again. I have had no promise of a ship from Mr. Maguire or the consul, or from any one except Mr. Jones.

Mr. DEIGHTON. But he told you you had better not go back to the Georgia?

WITNESS. Yes.

Mr. DEIGHTON. Were you ever told in Jones's office that it was illegal?

WITNESS. I don't know that I was. Maguire first called on me. He has a card. It has not upon it "Spy in ordinary to the United States." (Laughter.) He has "M. Maguire, late superintendent of police," on it. He said "Good morning, Mr. Glassbrook; have you been on the Georgia?" I said, "Yes, I have." He asked, "Did you burn many ships?" (Laughter.) I said "Yes, we did; a good many." I decline to say whether he instructed me to tell him what occurred at Jones's office. I received no instructions from Maguire until we went down to the Havre steamer.

Cecilia Glassbrook, wife of last witness, was then called. She deposed that in April last she called at Jones's office, 28 Chapel street, and received £10 on her husband's half-pay note. Mr. Highatt gave it to her. Called next month and got nothing. Was told to call the 3d of next month. Got money then from a boy. Mr. Highatt was standing by. Witness asked could she send a letter to her husband. Was told, if she took it there, they would send it. Went several times after—five times she got pay altogether—sometimes from the boy.

Mr. Deighton did not cross-examine the witness.

THOMAS MATTHEWS was then called. Mr. Bardswell complained that he had been listening at the door of the court, and had denied, when asked, that he was a witness.

WITNESS. I did not know that I was a witness at the time.

Mr. BARDSWELL. The policeman put you out bodily.

WITNESS. He must have put me out bodily, for if he had put me piece by piece, there would not be any portion of me here now. (Roars of laughter.)

Matthews deposed that he lived at Gloucester street, and was of Irish parents. (Mr. Bardswell, *sotto voce*: You are all Irishmen.) Witness hoped he was none the worse for that. (Laughter.) Shipped on the Japan at Greenock, made the cruise to the Cape of Good Hope, and came from Cherbourg to Liverpool. Went to Jones's office ten or twelve days after. Did not see Mr. Highatt until he had been two or three times. Saw him the last time on the 26th December. Asked Mr. Highatt if his fare was to be paid round to the ship. Highatt asked "What ship?" Witness said the Georgia. Highatt asked how he knew that his passage was to be paid. Witness told him he had made arrangements with the purser before leaving the ship; that he was to call at that office, and his fare would be paid round. Highatt read a letter from the ship that his passage was to be paid, but that he was to get no money. Mr. Jones was present. Highatt told witness to be down at the Havre boat on the Monday, and some one would be there to meet him and arrange. Witness went to the steamer, and proceeded to Havre with twenty other men, one of whom had been a shipmate on the Georgia. Mr. Wallman, who had been boatswain of the Georgia, but left her at Cherbourg, paid witness's passage to Havre.

Question. After leaving Havre where did you go?

Answer. To the Albion Hotel.

Q. Comfortable quarters?

A. Rather. (Laughter.) Mr. Maguire took me there. I went to the American consul's after.

Q. What did he say?

A. I don't know, he said so many things. I can only tell you one particular part, which most particularly interested myself. He asked me what my business was, and I told him.

Q. What was it?

A. It was particular business of my own. I said I wished to get a passage back to Liverpool. He said he would pay the money, and that particularly interested me. (Laughter.) I can't imagine why he did it; I suppose it was to his own interest. He paid the money, or I suppose I would not have been here. When I got to Liverpool, I called on the American consul here. I had a note from the American consul in France to the American consul in England. I was very well treated by him.

Q. He treated you, no doubt, with great civility?

A. He did, indeed; there's no doubt about that. (Roars of laughter.)

Q. What did he say to you?

A. I don't remember anything now. (Laughter.) It did not interest me what he said. It was what I said to him that interested me. (Continued laughter.) The consul in France did not pay for my quarters there. It was the confederate States that did it, or a Mr. Jones for them, or his officials. (Renewed laughter.)

Q. Who pays you £1 19s. 4d. a week?

A. I don't know; it comes to me. (Laughter.)

Mr. DEIGHTON. You know what it says about shutting your eyes and opening your mouth?

A. Yes, I open my eyes, and sometimes I open my mouth, and I shut my eyes and shut my mouth, too. (Roars of laughter.)

Q. Who pays you?

A. All I know is that I get it, and, therefore, don't make any noise about it. (Renewed laughter.)

Q. Where do you get the money?

A. I get it off a gentleman, but I don't know his name.

Q. Where does he live?

A. Well, suppose I don't tell you? (Laughter.)

Mr. DEIGHTON. Then suppose I should not know.

WITNESS. Then, if I was not bound to tell you where it was, you never would know. (Continued laughter.)

Mr. DEIGHTON. If you don't tell me, I shall not know.

WITNESS. Well, then, I shall not tell you until I am bound. (Laughter.)

Mr. DEIGHTON. Ah, but you see you are bound to tell me.

Mr. RAFFLES. You had better tell the gentleman; I dare say he knows more about it than you fancy.

WITNESS. Do you think I had better? (Laughter.)

Mr. RAFFLES. Yes.

WITNESS. I appeal to you—I am bound to tell? (Renewed laughter.)

Mr. RAFFLES. You had better.

WITNESS. You advise me to tell?

Mr. RAFFLES. Yes.

WITNESS. I can't tell whether I am bound or not.

Mr. RAFFLES. You are.

WITNESS. Then I shall not, and you must make me. (Roars of laughter.)

Mr. DEIGHTON. The court tells you you must.

WITNESS. Then I suppose I must. I received £1 19s. 4d. from an office which I am told is Mr. Maguire's office.

Mr. DEIGHTON. Where is the office?

WITNESS. I don't know; it's in some lane.

Mr. RAFFLES. Is it in Doran's lane? (Laughter.)

WITNESS. I can't tell. Somebody gives me my money, but I don't know anything about it. This is the first week I have received any wages from this office. There is no doubt about that. (Laughter.)

Mr. DEIGHTON. Who found you out?

WITNESS. Nobody found me. I found myself.

Mr. DEIGHTON. Who told you to come here?

WITNESS. I merely came to witness the case, and then I was asked by Mr. Thompson to be a witness. I got the £1 19s. 4d. some time to-day, but don't know exactly when it was. I did not make any bargain about it; I was not required to do anything but to make a statement.

Mr. DEIGHTON. In fact, why you were paid £1 19s. 4d. you could not tell, and you made no inquiries about it?

WITNESS. I dare say you would have done the same. (Laughter.)

Mr. DEIGHTON. They are not likely to get me into their office and pay me that sum.

WITNESS. Perhaps they might give you more. (Roars of laughter.)

This was the case for the prosecution.

Mr. Deighton then proceeded to address the court for the defense. He could not help

congratulating himself that in a fog of obscurity they should occasionally be enlightened by the brilliancy which was to be found, as some people thought, only in the metropolis. He therefore congratulated himself and the court that his learned friend had come down to conduct this case—and he might say conduct it very creditably and very properly. But, at the same time, he did certainly very much regret that this was a case which had disclosed a system which he thought it was impossible to pursue in this happy country of ours. For here they found an American consul housed in England communicating by means of spies with an American consul housed at Havre. And here they found a person who described himself as having been a superintendent of police, unblushingly acting as a spy to the American consul for the benefit of the American government. That was a state of things which he could not help saying was a disgrace to any country in which it was allowed to be pursued. (The crier of the court here interposed and said: He was never a superintendent here.) Mr. Deighton said he did not care for that; he cared about what the man had said himself—that he was such. They found this man obtaining evidence from men who were not remarkable for their veracity—taking them into his office, and paying them to assist the government against persons who were carrying on a harmless trade in Liverpool, and doing that in favor of a belligerent party who were devastating the country with fire and bloodshed. But he had nothing to do with that. The question was one simply of law. Now he objected to the information on the face of it, because it stated that the men were to embark on board a vessel that was to be used for the purposes of war. There was nothing in this act of Parliament to prevent an Englishman or any other person from enlisting in the service of the confederate government, provided the vessel was not to be used for warlike purposes.

Mr. Raffles overruled the objection.

Mr. Deighton maintained his objection. He then asked what was the evidence that would justify the court in finding that any case whatever had been made out against Mr. Highatt. The vessel was originally the property of a British subject, and when the men shipped on board her, she was to have proceeded on a voyage to China. It was not until she arrived off Brest that anything took place to change the character of the vessel from a peaceful merchant vessel, bound ostensibly on a peaceable voyage to China and Singapore. Up to that time, therefore, what was there to affect Mr. Highatt with anything like a criminal act? All he was proved to have done was that when there were men on board this vessel he was there, and called out their numbers, and superintended the arrangements. Up to that time he should submit that there was no criminal act done by any person whatever. When the ship got off Brest, Mr. Jones came off to her in a steamer, but there was nothing which would make Mr. Highatt responsible for what took place. It was true they were partners, but the act of one partner did not render the other criminal, unless it had been in furtherance of a common object. It was not so in this case. At Brest the enlistment, if enlistment there was, took place. It was true these persons were shipped at this port, and it was true that they had certain claims upon the defendant's office according to their articles. Therefore, when they returned to Liverpool, they called at the office and saw Mr. Highatt. There was considerable confusion in the evidence as to what took place. The first man, Conolly, asked for some money, and stated that the grounds on which he did so were that he had enlisted and taken his place in the confederate service, and having left the Georgia, as the vessel afterward became, on leave, he asked to be furnished with some money to return, in order that he might get his wages. Supposing that were true, it was no offense; for the man was already in the confederate service, and it was no more illegal to furnish a confederate sailor with money, than it was in respect to a federal soldier; because he was then in the service of a belligerent party, whoever that might be. All that was made out against Mr. Highatt was that this man enlisted, and made out a claim on his advance note, and applied to Mr. Highatt to give some money; but that was not procuring or enlisting. He (Mr. Deighton) would leave the question in that way. He said first of all that they did not connect Mr. Highatt with anything criminal until the vessel arrived off Brest, and when it did arrive off there, the crime, or whatever it was, was completed, and the men had then the power of coming away, and several of them did come away. Therefore, Mr. Highatt had really nothing to do with it, unless in being applied to to furnish money to carry the men back to Havre, and that would not justify the court in sending the case any further. Of course the government could send it further if they liked, but as the case now stood there was not the slightest evidence to show that Mr. Highatt had been connected with any crime whatever, or had acted in concert with Mr. Jones in reference to what Mr. Jones did when these men were enlisted, if enlisted at all. When the evidence of these men came to be dealt with—men who were paid by American spies, and were strongly tempted to make out a case—their statements should be received with the greatest caution, for it appeared from what they themselves said that they were paid to make out statements from time to time, and make additions to what they had formerly said. It did appear to him that this was the most trumpery case that had ever been brought forward against any gentleman by government. It was done through the influence of

Mr. Maguire, who no doubt acted according to the instructions of the American consul. The learned counsel then concluded by repeating his belief that there was no case to be sent to a higher court.

Mr. RAFFLES. Without making any remark upon the case, I will bind the defendant over in sufficient sureties to appear when called on. It is now only a question of bail.

Mr. Lushington suggested that the bail should be two sureties of £250 each, and the defendant in £500, remarking that he (the defendant) would have no difficulty in finding the bail, as he had, no doubt, the whole of the Confederate States at his back. Mr. Highatt was also a member of the firm of Jones & Company.

Mr. RAFFLES. Oh, he won't be bail.

The defendant was ultimately bound over in two sureties of £150 each, and himself, in £300, to appear when called on, his sureties being Mr. Donald Kennedy, 3 India buildings, and Mr. Robert Hopwood Coddington, Roby.

Mr. Lushington observed that a summons had been left at Mr. Jones's house, but that gentleman did not appear, and submitted that a warrant should be issued for his apprehension.

Mr. Raffles granted the warrant.

The proceedings then terminated.

[From the Liverpool Daily Post, January 28, 1864.]

THE TREASURY PROSECUTIONS.

Yesterday, at the Liverpool police court, before Mr. Thomas Stamford Raffles, the stipendiary, Mr. John Jones and Mr. John Wilding, the former a partner in the firm of Jones & Co., ship-store dealers and chandlers, 28 Chapel street, and the latter a clerk employed by that firm, appeared to answer the informations laid on behalf of the treasury, charging them with having infringed the provisions of the foreign enlistment act. The defendants, with Mr. Robert Highatt, were summoned to appear on Friday, the 15th instant, but as they did not on that occasion put in an appearance, the case against Mr. Highatt only was proceeded with. As has been already stated, the tenor of the information was as follows: The first count charged the three defendants with having, in Liverpool, endeavored to procure three men to serve in the sea service of the Confederate States of America; the second count charged them with endeavoring to procure the men to embark from Liverpool for such service; the third count alleged such procurement by the defendant Jones on board the British ship Japan; and the fourth charged a conspiracy to procure.

Mr. Bateson, of the firm of Bateson & Robinson, appeared to prosecute; and Mr. Bardswell, of the firm of Littleddale, Ridley & Bardswell, for the defendants.

Mr. Bateson said that the facts had been so recently before the court that he apprehended there would be no necessity to restate them.

Mr. RAFFLES. Oh! yes; there is no occasion to do so.

Mr. BATESON. Then I will at once call witnesses.

JOHN STANLEY, one of the witnesses examined last week, stated that at the end of March last he went to the office of Messrs. Jones & Co., in Chapel street, having heard that they wanted coopers for the Japan. He saw Mr. Highatt, who said this was correct, and, upon witness's statement that he wished to go, asked if he could get a few more, to which witness answered that he would try. He afterward engaged at the Sailors' Home, with Captain Hitchcock, in the presence of Mr. Highatt, to go in the vessel to Singapore, drawing an advance note of £4 10s. Finding that he could not get the note cashed, he went again to the office in Chapel street, and told Mr. Jones that if he would not cash it he would not go in the ship. Mr. Jones gave him half his pay, and promised to give the rest to witness's "mistress" after witness had gone to sea. He also told witness to be down at the Greenock boat on the following Monday. Witness went accordingly, and saw Mr. Highatt there, calling out the names and numbers of the men who were to go. At Greenock Mr. Jones came on board the steamer, and saw witness and the other men into the boat, which took them on board the Japan. The Japan went out on her trial trip, and did not return; witness sailing in her. On the coast of France they fell in with a small steamer, which came alongside and put guns, ammunition, and money on board the Japan. Mr. Jones was there superintending the transfer; and afterward he met witness amidships, and said it would be a good job for him if he would go with the vessel. Captain Maury was then on board, but in disguise; and in the evening he called the men out, and said the ship was going to sail under another flag, and would be called the Georgia. Mr. Jones stood by him as he said this. Captain Maury said they would receive £10 bounty, and £4 10s. a month; and witness was to have £5 a month. Witness received an order to go into the cabin after this. He saw Mr. Jones and Captain Maury sitting there. The purser gave him £10 bounty, and he handed it to Mr. Jones, who said he would give it and

half-pay to witness's wife, and would do well for her and the children. During all this time Captain Maury was dressed in naval uniform. At midnight, they hoisted the confederate flag, saluted the steamer with three cheers, which were returned, and sailed away on a cruise, during which they burnt and destroyed all ships they met under the northern flag. Witness was made a citizen of the Confederate States—a free white man. In November, the Georgia returned to Cherbourg, when witness got twenty-four hours' leave and came to Liverpool.

Thomas Matthews, who had also shipped on board the Japan, made the same statement in more general terms, and stated that after his return to Liverpool, the defendant Wilding paid him money to enable him to go back to Havre, for the purpose of rejoining the ship.

The witness was requested to identify Mr. Wilding, who was in court; but he could not point him out.

At the request of Mr. Raffles, Mr. Wilding stood forward, and the witness then said he was not the person who had been represented to him to be Mr. Wilding.

Mr. Bateson applied for an adjournment of the case as against Mr. Wilding; and pressed for heavy bail in the case of Mr. Jones.

Mr. Raffles having intimated that he should send the case for trial,

Mr. Bardswell said he should reserve the defense.

Mr. Jones was then directed to find bail, himself in £500 and two sureties in £250 each, to appear at the next assizes to answer any indictment there to be preferred against him.

THOMAS GLASSBROOK, having been called, stated that he thought the defendant Wilding had paid him £3 at the time when the men were about to return to the Georgia; but he could not swear to him.

The case was then adjourned for an hour, to enable Mr. Bateson to bring further evidence.

After the adjournment,

BENJAMIN CONNOLLY was called, and at once pointed to Mr. Wilding (who had in the meantime made a slight change in his dress at the suggestion of his solicitor) as the person who had paid him £3 at the Havre steamer, to pay his passage back to France, for the purpose of joining the Georgia.

Mr. BARDSWELL asked what case had been established against Mr. Wilding? He had not been proved to have procured or hired anybody to serve under the confederate flag, but only to have paid somebody who had already been hired.

Mr. BATESON said the evidence showed that Mr. Wilding had paid money to induce the men to go back and serve on board the Georgia.

Mr. RAFFLES. There is also a charge of conspiracy in the information. There was evidence of a conspiracy to violate the foreign enlistment act; and a conspiracy to violate any act was a criminal offense.

The witness was further examined, confirming the evidence already given; and in cross-examination he said Mr. Wilding had not been described to him during the adjournment.

Mr. Raffles directed Mr. Wilding to find bail, himself in £50, and two others in £25 each, to appear at the assizes; Mr. Bardswell stating that in this instance also he should reserve the defense, although he had witnesses in abundance to deny all that had been said by the paid witnesses of the prosecution.

The witnesses were then bound over to appear and give evidence at the assizes.

[From the Liverpool Daily Post, April 1, 1864.]

THE FOREIGN ENLISTMENT CASE.

His lordship, alluding to the case of the Queen *vs.* Jones and another, said he had consulted his brother Willes, and they were both of opinion that it could not be tried at these assizes. He must therefore take upon himself to decide that it should not be taken, for he had clearly no jurisdiction.

Mr. Attorney General JAMES, Q. C., said, on behalf of the Crown, he had no objection to offer to the trial being proceeded with.

Mr. MELLISH, Q. C., said he was most anxious the trial should take place during the present assizes.

His lordship said even the consent of all parties to the case being tried could not give him jurisdiction in a criminal matter, and though he personally was perfectly willing to proceed, he could not legally do so. The case would not, therefore, be taken during the present assizes. It could be made a *remoret*, or application could be made to take it into another court.

The court then rose.

[From the Liverpool Daily Post, Monday, August 15, 1864.]

LIVERPOOL ASSIZES, August 13.

Before the Lord Chief Justice Cockburn.

THE MANNING AND EQUIPMENT OF THE CONFEDERATE STEAMER GEORGIA.

This was a prosecution directed by the government in which Mr. John Jones and Mr. Robert Highatt, of the firm of Jones, Highatt & Co., Liverpool, were the defendants.

They were indicted for having enlisted seamen for the service of the Confederate States. Mr. Attorney General James, Q. C., and Mr. Lushington were counsel for the prosecution. Mr. Temple, Q. C., and Mr. Baylis for the defendant Jones. Mr. Brett, Q. C., and Mr. Mellish, Q. C., for the defendant Highatt.

Mr. Lushington stated the terms of the indictment. The first fifteen counts related to the enlistment of a man named Stanley; the next fifteen to a man named Connolly; the next fifteen to that of a man named Glassbrook, and the last six to that of a man named Matthews. To all of them the defendants pleaded not guilty.

Mr. Attorney General James, Q. C., said he had the honor to appear to conduct, on the part of the Crown, a prosecution against the defendants, Mr. Jones and Mr. Highatt, for having violated an act of Parliament, passed in the year 1819, to enable the government of this country successfully as far as possible to maintain neutrality in the case of war between foreign states. And he was sure he need hardly tell the jury that the interests of this country required, that during the pendency of the most unfortunate civil war which was now prevailing in the northern parts of America, we should hold ourselves in all respects faithfully and steadfastly from taking part with either one or the other, and that no person should violate the proclamation which they all knew had been issued at the commencement of the war, whereby the government had warned all people against taking any part whatsoever, either directly or indirectly, and warned them of the consequences. He was sure they would agree with him, that it was incumbent upon everybody faithfully to discharge his duties so as to prevent any complication on the part of the government of this State involving her in difficulties with foreign powers, and leading, perhaps, if the matter is not put an end to, to difficulties which might end in war. Now he dare say it was matter of history—of a very late day of course, but matter of history—that a vessel was in the Clyde in the year 1863, owned by British owners, registered in the name of a gentleman called Bold, who was in partnership with the two defendants, Mr. Jones and Mr. Highatt; that that vessel, called the Japan, went out from the Clyde upon a trial trip; she met, apparently accidentally, upon the high seas, a small boat, a steamer, which she took in tow, and they went either to Cherbourg or off Cherbourg, and from thence this small steamer paddled away to some distance from land, followed by the Japan. They came alongside, and there was put on board that vessel called the Japan a quantity of arms and ammunition. That vessel's name was changed to the Georgia. She sailed either as a vessel of war belonging to the Confederate States or as a privateer, duly authorized by those States to act in that capacity. She made an expedition, he believed, as far as if not further than the Cape of Good Hope. She destroyed vessels belonging to the flag of the other belligerent, the federals, and acted in every respect as a vessel of war, and that, he was sorry to say, during the time when legally the vessel was owned by a British merchant. It was not until some two or three months after the Japan had departed from the Clyde, and during the time when she was committing these ravages as one of the belligerents upon the opposing power, that the legal ownership of his vessel was changed, and Mr. Bold ceased to be the legal owner. A greater scandal could scarcely by possibility exist on the part of a country which professed to firmly maintain its neutrality than to permit proceedings of that character to prevail, and not to seek to punish those who had violated the law. The government of this country felt itself called upon to maintain its own character as a neutral, and called upon them as the jury impanelled to try the question if the facts were proved, which he (the learned counsel) should shortly state to them, to discharge their duties as faithfully as the government was now seeking to discharge its own. Now the defendants being in partnership with Mr. Bold, the registered owner of the vessel, Mr. Thomas Bold hired and engaged and endeavored to hire and engage persons to serve on board this vessel. The facts in detail they would hear from the witnesses, but the circumstances prevailing in one or two cases he would state to them, and there could be little doubt that the same system was pursued in all as in those. Resort was had to the Sailors' Home in this town. Men were wanted, and men were directed to go and did go to Messrs. Jones & Co.'s office. They were there unquestionably engaged to go out to the Japan, then lying in the Clyde. Arrangements were made for them to go down to a vessel which was to convey them to Greenock, where they were to go on board the Japan, which had never then been to sea. The men went down to the landing stage or the place from which they were to go on board the steamer, and there Mr. Highatt, one of the defendants, called over their numbers, not their names—they went by numbers; he mustered them in fact—as they went

on board, and they went to Greenock. At Greenock they were shipped on board the Japan. The Japan went out as he had stated, and off Cherbourg took on board the arms and ammunition, and then there appeared a gentleman of the confederate navy, Lieutenant Maury, first in his plain clothes, and afterwards he assumed the uniform of the confederate service. The flag was hoisted, Mr. Jones, the defendant, being on board, Mr. Jones having, there could be no doubt, gone in charge of the ammunition which were on board of the smaller steamer and superintended their being put on board the Japan. He was present when subsequently articles were signed by several of the men on entering the confederate service; he was cognizant of the whole thing, and he (the learned counsel) was not sure that he did not in some instances invite the men to enter the confederate service. However, to make a long story short, Lieutenant Maury and Mr. Jones invited and induced a considerable number of men, and among them some of the witnesses who would be called before the jury to enter the service of the Confederate States. They received £10 bounty and a variety of promises. They were to have half-pay advance-notes, and these were made payable at Messrs. Jones & Co.'s office in Liverpool, and Messrs. Jones & Co. did pay the notes when application was made. Mr. Jones took upon himself to guard and take care of one or more of the men's bounty, so that it would be puerile for an instant to suppose that Messrs. Jones and Highatt were not perfectly familiar with everything that was going on. To say that they were ignorant that this was a vessel of the confederate government, or a privateer licensed by that government, would be idle. No man in his senses could doubt by possibility, from these facts, that they were perfectly cognizant of the whole proceedings. In the month of November the Georgia came north again, and was off the coast of France. Some of the men got leave and came to this country to see their friends, and some of them afterward went to the office of Messrs. Jones & Co. to see whether they could have the means of returning to the Georgia. Messrs. Jones & Co. professed that they would make inquiries by telegraph as to whether they were to advance the money, and subsequently they told the men they had good news for them. It was obvious that the good news was that they were to go away and that they would receive (he believed) £3 upon going down to the landing stage or to the harbor boat. They went down, and then a man named Wilding, a clerk of Jones & Co., gave them £3 each. Some of them after receiving the money went back to the Georgia, and some did not. These were the facts of the case. The indictment was laid under the Act 59 George III, cap. 69, sec. 2, which cited that if "any person whatever within the United Kingdom of Great Britain and Ireland, or in any part of his Majesty's dominions elsewhere, or in any country, colony, settlement, island, or place belonging to or subject to his Majesty, shall hire, retain, engage, or procure, or shall attempt or endeavor to hire, retain, engage, or procure any person or persons whatever to enlist, or to enter, or to engage to enlist, or to serve, or to be employed in any such service or employment as aforesaid as an officer, soldier, sailor, or marine, either in land or sea service, for or in aid of any foreign prince, state, potentate, colony, province or part of any province, or people, or for, or under, or in aid of any person or persons exercising or assuming to exercise any powers of government as aforesaid, or to go, or agree to go, or embark from any port of his Majesty's dominions for the purpose or with intent to be so enlisted, entered, engaged, or employed, as aforesaid, whether any enlisting money, pay, or reward shall have been or shall be actually given or received or not," such person should be guilty of a misdemeanor. This provision the learned counsel said was as full as it could be, and it had been made at the time when the act was passed for the purpose of preventing interference between powers or states at that time situated as the American States were now.

Mr. HENRY HARTLEY WITHERS, manager of the Royal Bank, was the first witness. He stated that the firm of Jones and Company kept an account with the Royal Bank, and he knew Mr. Thomas Bold to be a partner of the firm.

Mr. Temple said his lordship might take it as admitted that the defendants were partners of Mr. Thomas Bold, but not that they were partners with him as ship-owners.

FRANCIS GLASSBROOK said he was a seaman, and had formerly been in her Majesty's naval reserve. At that time he went under the name of Frank Rivers. He signed articles for the Japan in March, 1863, at the Liverpool Sailors' Home. He went to Messrs. Jones & Company's office in Chapel street for the advance note, and received instructions from a lad in the office to go down to the Greenock boat that night. He did so, and there saw Mr. Highatt, who was giving small pieces of card to the men who were going to the Japan. One of the cards was given to witness, and he found a number upon it. The numbers were called over, and each man went on board as his number was called. This was on the quay, alongside the Greenock boat. Witness did not pay for his passage. Mr. Highatt superintended the getting the men on board, and checked them as they passed him. He gave them passage tickets. Ten or twelve seamen went to Greenock, and when there they went on board the Japan. She was a vessel with main deck poop, fore-castle deck, and two masts. She was a screw-steamer, brig-rigged, and had a round stern and a bust as her figure-head. Had his kit with him when he went on board the Japan. It had been left at Mr. Jones's office before he quitted Liver-

pool. Found it in the tug-boat in which he was taken from the Greenock boat to the Japan. A few days afterwards left the Greenock in the Japan. Captain Hitchcock acted as her captain. In a few days they fell in with another steamer; they were not in sight of land at that time. They took the small steamer in tow and went to Brest with her. They hauled alongside the small steamer in the evening and took in stores, powder, shot, and guns; got them from the small steamer, and were occupied the whole night. Mr. Jones was in the small steamer looking on. Did not suppose that he was working. Was making himself very conspicuous. (Laughter.) Witness thought he was the captain. Captain Maury came on board after the guns were on board, and took the command. He was not in uniform when he came on board, but he afterward put on his uniform. All hands were then called aft. Mr. Jones was standing by Captain Maury, who told them that the vessel was going under the confederate flag; that any one who wished might go and get £4 10s. per month and £10 bounty to those who would join for three years or during the war. A great many of the men accepted the terms; as nearly as he could tell, there were twenty-five, of whom he was one. Mr. Jones was present all that time. He did not have any conversation with Mr. Jones till after he had shipped, when, having received the bounty, witness gave him the £1 10s. to take home to his wife; signed fresh articles in the cabin, Mr. Jones being present. Asked Mr. Jones to be good enough to take the £10 home to witness's address, and he said that he would. When witness and others were signing articles Mr. Jones said he would give their wives half-pay. The captain put down his wife's address in a small book. It was not said in Mr. Jones's presence where the wives were to receive half-pay; at least not in witness's hearing. The confederate flag was hoisted on the vessel one night. First saw it hoisted three weeks after the vessel left Brest. The vessel then cruised to the Cape of Good Hope. Mr. Jones went back in the small steamer. While on the cruise took and sunk vessels carrying the federal flag. Returned to Cherbourg in the same year; got home and returned to Liverpool. Went to Messieurs Jones and Highatt's office in Chapel street. Thought that the first time he went there he saw Mr. Jones, who asked him how he liked the Georgia, that name having been given to the vessel after it left France. Told him that he liked the vessel very well. Mr. Jones asked him if he was going back, and he said "Yes." Mr. Jones said he had received no instructions, as yet, to send him back. Went to Messieurs Jones and Company's office three or four times. Sometimes Mr. Highatt turned his back upon him. On one occasion he had some conversation with Mr. Highatt. The witness Connolly was with him. Mr. Highatt asked them if they belonged to the Florida, and they replied "No, to the Georgia." He said he had word to send them back, and put down a guide for them to look over, and told witness to fetch Frank Barrow; asked him for a month's half-pay that was due, and he told him to come back at three o'clock, and to bring his wife's signature with him. Did go at three o'clock, and got the month half-pay from an office boy, who told him to be down at the Havre boat at eight o'clock on the following morning. Was not quite sure whether Mr. Highatt was present. On the following Monday morning went to the Havre boat and received £3 from a person represented to be a clerk in Mr. Highatt's office, and whom he had seen there, and whose name was Wilding. Did not go to Cherbourg, but afterwards saw Mr. Jones who was in his office. He told witness the best thing he could do was not to go back. He said that in a private room in his office. He told witness he would get him a ship if he wanted one. Witness served on board the Georgia as captain of the main-top. Did not want to go back to Cherbourg.

Cross-examined by Mr. TEMPLE: It was on leave of absence that he came from Cherbourg to Liverpool to return. Got three pounds from Wilding, and then walked away, having changed his mind. Had seen the American consul before he received the three pounds. Mr. Maguire had seen him. He was a detective and had called upon him at his residence, and took him to the American consul; then made arrangement with the consul that he was to stay here. The consul promised him he should receive the same wages as he had had on the Georgia; was to walk about without Maguire. (Laughter.) The understanding was that witness was to keep back and not go on board the Georgia. Maguire paid him the wages.

Mr. TEMPLE. Were you such a valuable fellow that they wished to keep you back from the confederate service? (Laughter.)

WITNESS. Yes; I suppose so.

Mr. TEMPLE. Well, you are a ferocious looking fellow. (Renewed laughter.)

Witness said he was so. (A laugh.) The confederate service at the time owed him money. The three pounds was due to him besides the half-pay, and now he should think there was more money due to him than he actually received. The American consul never asked him to pick up information for him. Maguire told him to go to Jones & Highatt's office; would not swear that he told him to go to Mr. Jones's office and ask him for money, or that he did not do so. Maguire gave him no directions from November till the present time; had been walking about receiving £1 19s. 4d. per week wages, the same as when he was on board the Georgia.

Mr. TEMPLE. That is more pleasant than smelling gunpowder on board the Georgia.

WITNESS. I fancy it is. My real name is Glassbrook, but I call myself Rivers. That is very often done, and I have often changed my name.

Mr. TEMPLE. You have, then, a good many aliases? (Laughter.)

His LORDSHIP. Like the ship, you know; the Georgia. (Laughter.)

Witness said he had run away from his vessel, a United States brig of the merchant service. After he had been in Messrs. Jones & Highatt's service, witness told all that had passed to Maguire the detective.

Mr. TEMPLE. That is to say you had received £1 19s. 4d. to act as a spy. (Laughter.)

WITNESS. Not exactly.

Mr. TEMPLE. Not very far off, was it?

His LORDSHIP. We should call that in law *quasi* spies. (Laughter.)

Witness re-examined by the attorney general: In January last, at the police court, he was bound over to prosecute in the case. He had been paid wages ever since by Mr. Bateson.

Benjamin Connolly, who shipped on board the Japan as a boy; John Stanley, who shipped as cook; Thomas Mathews, who shipped as cooper; Mrs. Glassbrook, who received her husband's bounty and half-pay from the defendant Highatt; and Mrs. Stanley, who received her husband's half-pay also from Mr. Highatt, were examined in further support of the learned counsel's opening statement.

This being the case for the prosecution, the learned judge said there was an admission that the defendants were ship-store dealers, and one of them was a ship-owner.

Mr. Temple said it was admitted that Mr. Jones had some shares in some ships, but not that he had had any in the Japan.

The ATTORNEY GENERAL. I did not take it in that way. I took it that Mr. Jones was a ship-owner.

Mr. Temple repeated the observation.

The attorney general said the admission had been made to him without any limitation, and he could not see why the limitation should be made now. If that limitation was to be attached to it the admission might be withdrawn.

Mr. Temple then submitted to his lordship that there was no case. For the purposes of the question of law which he was about to submit of course they must assume that the statements of the witnesses who had been examined were correct, though if his lordship should be of opinion that there was a case to go to the jury it would be for the jury to decide upon the accuracy or otherwise of the evidence before them. If they looked to the act of Parliament to see what the offense was with which the defendants were charged it was comprised, as far as this prosecution is concerned, in the words which had been read by his learned friend the attorney general. He called his lordship's attention to the words "Within the United Kingdom of Great Britain and Ireland, or in any part of his Majesty's dominions elsewhere." From these words and the context it appeared that the offense at which the statute aimed was the hiring, retaining, engaging, or procuring, or attempting, or endeavoring to enlist, or enter, or engage to enlist within the United Kingdom, or in any part of the Queen's dominions elsewhere, and the hiring to constitute the offense must take place in some part of the United Kingdom or some part of her Majesty's dominions. Now in this case the hiring in the first instance was unquestionably a hiring to go from Greenock and to sail in the Japan to China; according to the evidence it was when the vessel arrived off Brest, in no part of her Majesty's dominions; that Lieutenant Maury presented himself and made a speech to the men, telling them that any of them that liked to go with him might do so, and that those who did not wish to do so might go back. Even assuming that Mr. Jones had participated in inducing them to go with Lieutenant Maury, still what he did was in no part of her Majesty's dominions.

His LORDSHIP. What is the nationality of the ship as represented in the articles?

Mr. Temple said she was a British ship, but he submitted that the words of the act must be taken in the ordinary and strict sense, not in the figurative sense in which they were taken for certain international reasons. He contended then that there was no evidence of the offense within the meaning of the act of Parliament as to the original hiring. Then as to what had taken place in Liverpool when the men were to be forwarded to Havre. According to the evidence of all the men they were at the time the servants of Captain Maury, or if they pleased of the confederates. They received leave of absence, and money was due to them from whoever was the owner or the person interested in the ship which was then called the Georgia. They applied to the defendants for advances, and stated that they had been led to believe that the defendants would furnish them with the means of returning to Havre. They were the servants of Captain Maury, and had received leave of absence upon the condition that they were to return, and their application to the defendants was merely for the purpose of obtaining their passage back.

His lordship said the second set of words in the act had reference to the intention to send the men back from Liverpool to Havre.

Mr. Temple submitted that to bring the defendants within this section they must

have done something which was comprised within some of the words which had been read.

HIS LORDSHIP. Of course.

Mr. Temple asked then, had the defendants hired these men? They were at the time already hired, retained, and engaged. They were under the obligation of the articles they had signed. One of them, the last of them examined, he believed, had said that when he applied to the defendants he told them that when he left the ship he had been told the purser's notes would be sent to request the defendants to give him the means of returning, and that, therefore, he had called upon them. There was nothing done beyond advancing money, which was already due to the men, and sending them back to the employment in which they were engaged by the obligation of the articles, which were still in full force. Suppose the men had been hired by some one whom the defendants had never seen, in a distant part of the kingdom, say Portsmouth, but being natives of Liverpool had come to see their friends, and the defendants had advanced the money would that have been a hiring in the sense here intended?

His lordship said the last of the men called, the steward, had said that when he went to the defendants he had said all he wanted was the means to return to the ship, and that nothing more than that was furnished by means of the defendants. They found the means to enable him to go back, not to enlist or engage, but to be employed, and the words of the section were "to be so enlisted, engaged, or employed."

Mr. Temple submitted that that meant they must procure them in the first instance to go, in order that they might be engaged to be employed. It had reference to the engagement.

HIS LORDSHIP. Certainly, I could not stop the case upon that point. I will give you an opportunity, in case the verdict is adverse, to move for a new trial when the time comes. But with regard to the first point, if they procure persons to go, or with the intent to be engaged, if that is the intention with which they procure them to go abroad.

Mr. Temple submitted that there was no evidence to this effect.

His lordship said yes, although the men did not intend, the defendants procured them to go with the intent that they should be enlisted, unless it could be contended that there must be a corresponding intent in the minds of the persons who were got to embark. It struck him on the first blush that if there was an intent on the part of the persons procuring them to go, that when they had gone they would be enlisted, that was what constituted the offense. He thought the better way would be that the case should go to the jury, and if there was a conviction the defendants should be brought up for judgment, and the learned counsel would have ample opportunity of raising these points. The only question at present to be considered was whether the facts were to be taken as they then appeared upon the evidence.

Mr. TEMPLE. And the effect of the fact, my lord, which may be partly a question for the jury.

HIS LORDSHIP. Any point you like to take to the jury do.

Mr. BRETT. Does your lordship think we had better not go into the argument?

HIS LORDSHIP. Yes, I think so.

Mr. BRETT. Your lordship knows I take the same points as my learned friend.

His lordship assented.

Mr. Brett observed that the early part of the section referred to natural-born subjects of the Crown, but that in the portion of the section which had been quoted the words were changed from "natural-born subjects" to "any person whatever;" and for this reason the limitation was added "within the United Kingdom of Great Britain and Ireland, or in any part of his Majesty's dominions elsewhere."

His lordship said that if the section were interpreted in the manner suggested, a man would have nothing to do but to get a number of persons on board a steamer, take them out for a trip, and engage or enlist while they were beyond the limited distance from land, and the act of Parliament would be a dead letter. His own impression, at present, subject to the arguments, was that a British ship being for all other purposes part of the British dominions.

Mr. Mellish said it was important to see that at the time in question this was not a British ship on the high seas, but a British ship within the French dominions. It was actually in a port of France, and although a British ship might be for many purposes the Queen's dominions upon the high seas, it could not be so under those circumstances.

The attorney general said there was no evidence that she was in the port.

Mr. MELLISH. They all said the officers interfered with them; they were within three miles.

The ATTORNEY GENERAL. There is no evidence of that.

Mr. MELLISH. There is no evidence that she was beyond three miles, and it is for you to prove it. Your lordship knows it is some question whether the distance is that to which a gun will fire, and whether it is not enlarged by the great distance to which cannon will now reach.

The attorney general suggested that although the indictment stated that the men

were hired from the 25th of March, the hiring, if on board the vessel, would be included.

Mr. Mellish said every count of the indictment stated that the offense took place on the 25th of March, within her Majesty's dominions, "to wit, at Liverpool, in the county of Lancaster."

His LORDSHIP, (to the attorney general.) Then, on that point it is clear you must fail.

The attorney general suggested that his lordship had power to amend the indictment; and if it would be for the ends of justice, it was for his lordship to say whether that should be done or not.

His LORDSHIP. Have I the power to amend?

The attorney general believed his lordship had power to amend in all misdemeanors.

Mr. TEMPLE. Not for the purpose of making a new and different offense.

Mr. BRETT. The grand jury have found the bill.

His LORDSHIP. I have the power to amend for the purpose of trying whether it was committed at Liverpool, but I cannot find a new indictment. It is one thing to do it in Liverpool, and another to do it here.

The ATTORNEY GENERAL. I am only bound to call your lordship's attention to it. Whatever intimation your lordship gives me I am content.

His LORDSHIP. I should be usurping the province of the grand jury.

Mr. TEMPLE proceeded to address the jury on behalf of the defendant, Mr. Jones. He said one question for their consideration was whether the evidence satisfied them that when the defendants engaged these men to go to Greenock, having signed articles for the purpose of being shipped on a voyage to China, they did so with the intention of taking them to Brest for the purpose of being employed in the service of the confederates. His learned friend, the attorney general, had to satisfy them of that; because, if Mr. Jones was engaged in the proper pursuit of his profession in engaging men to serve on board an English ship for English purposes, and if, after he had engaged the crew, the ship was sold to a foreigner, and Mr. Jones merely went out, upon this change of destination, for the purpose of giving up the ship to the purchaser—if these, and these only, were his motives, he was not guilty of the intent contemplated by the statute. He certainly had not hired the men in Liverpool, or in any part of her Majesty's dominions, to serve in the service of the confederates. It was for the prosecution to show that, although in point of fact these men had been hired by Mr. Jones for the purpose of proceeding in the Japan to China, in the service of an English owner, his intention was, at the time when he hired them, to take them to a place to be engaged for another and a different purpose, contrary to the act of Parliament. What evidence was there of that? Were the circumstances that had been stated by the witnesses consistent with his perfect innocence? If they were as consistent with perfect innocence as with guilt, all reasonable men would conclude that Mr. Jones had acted from an innocent motive. It was one of his misfortunes—one under which he might possibly suffer if the good sense and discrimination of the jury did not come to his relief—that while the witnesses for the prosecution could state all they thought proper, he, the only person who could contradict them, could not be examined. Mr. Jones left the Japan at Greenock, and there was no evidence that the ammunition put on board at Brest was taken out under his care. He asked the jury to suppose that after the Japan sailed from Greenock for China, Mr. Bold had sold the vessel to some foreigner, who arranged to take possession of her off Brest; that Mr. Bold had then asked Mr. Jones to go out and give up possession, and bring home the sailors who had been engaged for the voyage to China; that at Brest Mr. Maury had met Mr. Jones and represented himself to be the purchaser, and that Mr. Jones had gone out with Mr. Maury simply to give up possession of the ship—what, in that case, had he to do with what was being carried in the steamer in which he and Mr. Maury went? If these had been the real circumstances of the case, there was not a single thing which the evidence showed him to have done that was inconsistent with his innocence. Captain Maury told the crew that those who liked to go with him might do so, and that such as wanted to return might return, and Mr. Jones was there with the steamer to take them back. According to Glassbrook, Mr. Jones had agreed to take the bounty money which some of the men had obtained and give it to their families, but that was no offense. Connolly and Stanley said that Mr. Jones had advised Connolly to go with the ship. But did the jury believe this? Mr. Jones was at the mercy of these men. All those who had come back had been laid hold of by the American consul, and Mr. Jones was not able to bring anybody there to contradict these men. Were these witnesses credible? Three of these men had been induced to go to Mr. Maguire, a detective, and the fourth had been handed over by the American consul at Havre to the American consul at Liverpool. What was the business of a detective? Was it to find out whether crime had been committed or not? No; but to establish the crime, whether it had been committed or not. Here the American consul told the detective officer he wanted to get evidence against Jones and Highatt, and to have them convicted; but he had no evidence, and desired him to look about for it.

He could imagine Mr. Maguire thinking, thereupon, that he would get hold of some of the men who happened to come over; that he would hold out inducements to them which should lead them into a sort of go-between espionage system that might possibly establish what was wanted, or that he knew enough of human nature to be aware that, his system failing, he could induce the men to invent what did not exist. It had become necessary to prove something more than that Mr. Jones had walked about the decks of the Japan; and consequently the jury had heard more from the witnesses. As to the second occasion, when the men were booked in Liverpool, he apprehended that his lordship would require the jury to say whether the defendants had given money to procure the men to be employed on board the vessel in the confederate service.

THE ATTORNEY GENERAL. That is expressly mentioned in the statute, "whether any enlisting money, pay, or reward shall have been actually given or received, or not."

His lordship said the question was whether the defendant had procured the men to go abroad for the purpose of being employed.

Mr. TEMPLE repeated to the jury the argument previously urged on this part of the case, and stated that the whole circumstances were such as would show that the defendants cared nothing where the men were going, and that therefore they could have no such intent as was charged against them.

Mr. BRETT addressed the jury on behalf of Mr. Highatt. He denounced in the strongest terms the means which had been taken in the employment of detectives to watch the defendants' office, to get up the case for the prosecution, and urged upon the jury the danger of trusting evidence so obtained. He said the question whether the defendants had hired the men in Liverpool previous to their being taken to Greenock with the intention of their being taken to sea or to Brest, there to be enlisted in the confederate service, divides itself into two. First, Did Mr. Highatt at that time know that the vessel was to be transferred to the confederate government? The defendants were ship-store dealers, and Mr. Bold was a ship-owner, but there was no joint ownership or partnership between Mr. Bold and the defendants as to ships. He contended that the evidence showed nothing in the conduct of Mr. Highatt at all inconsistent with the view that the ship was going to China. The evidence did not tell them whether Mr. Bold was absent from Liverpool at the time in question. The ship was not like a man-of-war or unlike a merchant vessel. There was no proof that the men had been asked to join the confederate ship until they were at Brest, and the whole case appears to show that the aim of the defendants had been simply to deliver the ship, and that the idea of enlisting men had never crossed anybody's mind until Captain Maury arrived on board the vessel. As to the second occasion were they prepared to find a person guilty of transgressing the law for advancing money to a person with the knowledge that he was to be employed by the confederates? If so, supposing Captain Semmes, while in England, should want to go to Charleston, any one who lent him money for the passage, or gave him a passage to Nassau, giving him the chance to run the blockade, would be guilty of this offense.

The attorney general in replying upon the case adverted to the comments which had been made by the defendants' counsel upon the prosecution. It was true that Mr. Jones, being under a criminal charge, was like any other person in the same position, unable to give evidence in his own behalf, and whether the provision of the law in this respect was wise or not was not a question for discussion in that place; but although this was sometimes an inconvenience to a defendant, it was often a great convenience, and it was possible that if Mr. Jones could have given evidence he might, in cross-examination, have been obliged to admit the truth, which would not have been agreeable to him. As to the system of espionage to which the defense had alluded, it was true that great vigilance had been exercised on behalf of the northern States, to see that none of the subjects of this country did act contrary to the neutrality which this country was bound to maintain, and prejudicially to the interests of those States, and he thought small blame was due to them for their efforts to prevent England from being made the base of warlike operations. Englishmen would do the same under similar circumstances, and would be wanting in their duty to themselves and their country if they did not use the greatest vigilance to see that a neutral country was not violated for belligerent purposes. If the confederate government had consuls here, (which could not be, the confederacy not being a recognized State,) he would be much surprised if they did not act as the federal consul had done in this instance. He defended the detectives from the attack made upon them by Mr. Brett. If the suggestion of the defense that the Japan had left the Clyde bona fide bound for China, and Mr. Jones had afterward gone on board merely to deliver her, at Mr. Bold's request, to the purchaser, why had not Mr. Bold been called to prove that such was the fact? He could easily have done so, and would have relieved his friends from all peril by proving that they had done only what any merchant would be proud to do, but he was not there, and the suggestion was not established. It was droll; it was almost puerile to set up such a suggestion without establishing it. If it had been true the Japan would have been on her way to China, and Mr. Jones's errand would have been the wildest

goose chase, but on the contrary she went round to Brest, and the jury had only to conjecture where the vessel came from by which Mr. Jones reached her, and how they came to meet when and where they did. Why did the men go, as had been proved, to Messrs. Jones & Company's office? Messrs. Jones & Co. were not shipping agents, yet they had engaged seamen, given them advance notes, undertaken to pay their wages, taken care of their kits, paid their fares, giving them cards, taken them to Greenock, put them on board the ship, and afterward, curiously enough, met them with stores off the French coast, when there was no doubt the vessel was to become a privateer. It was true that men who broke their allegiance to those whom they have sworn to serve were deserving of a certain amount of opprobrium, but the defendants were not in a position to reflect upon the witnesses who had done this, because they were themselves charged with having violated their allegiance to their own country. As to their conduct on the second occasion, what object had the defendants in giving the men money if not that they might be again employed in warlike operations? He (the learned counsel) had an important duty to perform. It was the interest of this country to maintain its neutrality, and the bounden duty of the government to check all attempts to break that neutrality. He trusted he might not be transgressing his duty when he entreated the jury to discard all reasons of sympathy which one could not help knowing existed in this country on the one side, and in some cases on the other, from their minds, and to do their duty fairly and impartially, leaving the future to settle itself. God forbid that by any act of theirs it should go forth to the world that England would not maintain its laws and its neutrality, but would allow those who had violated the laws to go free and unscathed. It was the interest of us all that was at stake, and he appealed to them if they were satisfied with the evidence to say so, trusting to the result that by so doing they might attain peace perhaps over the whole world.

The lord chief justice then summed up the case. They had first to decide whether the defendants or either of them had procured these persons to go and embark at this port for the purpose of being entered or engaged in the confederate service. There was no doubt that Matthews, Stanley, and Glassbrook did enter themselves and enlist on board the steamer which was immediately afterward employed as a war steamer in the confederate service for the purpose of waging war against the northern States of America; and there seemed to be very little doubt that both the defendants had to do with the men's leaving the port of Liverpool for the purpose of joining the Japan, afterward called the Georgia. These men were applied to, three of the four signed articles at the Sailors' Home, and although it was not known exactly what passed on that occasion, it was plain that the men immediately afterward betook themselves to the office of the defendants, where they received numbers, &c., directions what they were to do as regarded the mode in which they were to join the ship. The defendant (Highatt) was present and called over the numbers. When the men went on board the Greenock steamer they found either there or at Greenock the kits they had left at the defendants' office. Mr. Jones saw them on board the Japan, at Greenock, and afterward they were joined by a small steamer, as the jury had heard. Now came the question, whether the defendants had procured the men to be engaged in war against a country toward which this country was bound to maintain a strict neutrality. No doubt it was possible that the defendants might have been under the delusion that the ship was engaged for a voyage to China. It was for the jury to say whether they believed that to have been the case. If they believed the witnesses, Connolly and Glassbrook, the defendant Jones could not have been of that opinion, because he was on board the small steamer which was an important agent in the transaction, and when he found out what the vessel really was he manifested no surprise or horror. It was true that the jury had to rely upon the evidence of men who had turned traitors to the people they were sworn to serve and who had since played the spy upon the persons who, as they alleged, had engaged them. But, on the other hand, there was no attempt to show them that, on the day when these men signed articles at Brest, Mr. Jones was not on board, and if he was on board it was difficult to suppose he could have got there with the innocent intention described by the defense. It seems strange that if they were acting as agents for Mr. Bold, they did not now call upon him to come into court and state that they were innocently employed and perfectly unconscious that the vessel was intended to go on a warlike expedition, although sometimes it was an inconvenience and a hardship that a man—charged as the defendants were—could not be called to give his own evidence; sometimes it was a vast convenience to persons accused that they could not be called, because if they were they would be constrained to admit, unless they committed perjury, that the truth was on the other side, but it was a misconception to say that the evidence in this case rested solely on the word of those witnesses. The bounty money which they said they obtained and handed to Mr. Jones, was received by their wives, and that was the strongest possible confirmation of the supposition that it was so handed to Mr. Jones. There was nothing about £10 bounty money in the articles for the voyage to China. Then the money was paid by Mr. Highatt, and if he knew nothing of the transaction why did he pay it? Did not this

fact throw a light back? And could they doubt that he, like his partner who went in the steam tug to the Japan, had sent these men aboard for the purpose of being afterward enlisted in the confederate service? If the jury doubted this the defendants ought to have the benefit of the doubt; but even the jury were bound to act upon their conviction. It was natural that they should hesitate before placing a man who occupied so respectable a position, in the position of having been convicted of having violated the law, but they were bound to guard the law and see that it was not broken. The act of Parliament under which this prosecution was conducted was a very important one, without which the neutrality of the country could not be maintained or might be seriously jeopardized. They ought not to deal lightly with such a case as this if the evidence satisfied them that the defendants ought to be convicted of the charge. If they believed the witnesses independently of the corroborative circumstances, the case would appear to be made out. As to the second part of the case, if the jury thought the money paid by Mr. Highatt to Matthews after the men returned was only wages, that part of the charge would not appear to have been made out, but if they thought it was to enable Matthews to get back to resume his service, they must find for the prosecution. Whatever was their verdict certain points of law would be raised, but those were reserved.

The jury retired to deliberate, and after some time returned into court. The foreman said they found both prisoners guilty, and a verdict of guilty was entered against defendant Jones upon all the counts except those which related to Matthews, and against the defendant Highatt upon all the counts.

His lordship ordered the defendants to enter into their own recognizances to appear for judgment when called upon; each of them, himself, in £500, with two sureties in £100 each.

Subsequently, his lordship said he had taken a note that there was no evidence on the part of the prosecution that the men who shipped had the intention of serving in the confederate service, but merely of the intention on the part of the defendants. If it was necessary to constitute the offense on the part of the defendants that there should be intent on the part of those embarking, as well as on the part of those who procured them to be embarked, the defendants would be entitled to a verdict.

[From the London Times of Thursday, November 24, 1864.*]

COURT OF QUEEN'S BENCH, *Westminster, November 23.*

Sittings in Banco, before the Lord Chief Justice, Mr. Justice Crompton, and Mr. Justice Shee.

The Queen vs. Jones and another.

This was an indictment against two persons, named Jones and Highatt, for breaches of the foreign enlistment act, by procuring persons to be enlisted at Liverpool in the confederate service. The Alexandra case related to the equipment clauses of the statutes; this case relates to the enlistment clauses. The title of the act (59 George III, chap. 69) is "An act to prevent the enlisting or engagement of his Majesty's subjects to serve in a foreign service, and the fitting out or equipping, in his Majesty's dominions, vessels for warlike purposes, without his Majesty's license." Then the preamble runs thus:

"Whereas the enlistment or engagement of his Majesty's subjects to serve in war in foreign service without his Majesty's license, and the fitting out and equipping and arming vessels by his Majesty's subjects without his Majesty's license, for warlike operations in or against the dominions or territories of a foreign prince, state, &c., or persons exercising or assuming to exercise the powers of government in any foreign country, province, or part of any province, &c., may be prejudicial to and tend to endanger the peace and welfare of this kingdom; and whereas the laws in force are not sufficiently effectual for preventing the same," &c. And then the first section proceeds to enact:

"That if any natural-born subject of his Majesty, his heirs, &c., without the leave and license of his Majesty, signified by order in council or by proclamation, shall take or accept, or shall agree to take or accept, any military commission, or shall enter into the military service of the foreign state, &c., or shall go to the foreign country, &c., with an intent or in order to enlist or enter himself to serve, or with intent to serve, in any warlike or military operation whatever, whether by land or by sea, in the service of, or for or under or in aid of any foreign prince, state, &c., or as an officer or a soldier, or in any other military capacity, or as an officer or sailor, or marine, in any ship or vessel, &c., he shall be guilty of a misdemeanor." And then the clause proceeds: "that if any person whatever, in the United Kingdom of Great Britain and Ireland, or any part

*Transmitted with dispatch from Mr. Adams to Mr. Seward, No. 819, November 25, 1864, Vol. II, p. 468.

of his Majesty's dominions elsewhere, &c., shall hire, retain, engage, or procure, or shall attempt or endeavor to hire, retain, engage, or procure any person or persons whatever to enlist, or enter, or engage to enlist, or to serve, or to be employed in any such service or employment as aforesaid, as an officer, soldier, sailor, or marine, either in land or sea service, for or under or in aid of any foreign prince, state, &c., or to go or to agree to go or embark from any part of his Majesty's dominions for the purpose or with the intent to be so enlisted, entered, engaged, or employed as aforesaid, whether any enlisting money, pay, or reward shall have been or shall be actually given or received, or not; in any or either of such cases every person so offending shall be deemed guilty of a misdemeanor." &c.

The indictment contained fifty-one counts. The first count charged that the defendants, "on the 25th day of March, A. D. 1863, within the United Kingdom of Great Britain and Ireland, to wit, at the parish of Liverpool, in the county of Lancaster, unlawfully and willfully did hire, retain, engage, and procure one John Stanley to enlist as a sailor in sea service for, under, and in aid of certain persons exercising the powers of government in a certain foreign country; that is to say, for, under, and in aid of the Confederate States of America, against the form of the statute," &c. The second count was a repetition of the first count, except that the description of the foreign power was as follows: "For, under, and in aid of certain persons assuming to exercise the powers of government in a certain foreign country; that is to say, for, under, and in aid of the Confederate States of America." The third count was also a repetition of the first count, with the variation, "for, under, and in aid of certain foreign States styling themselves the Confederate States of America." The fourth, fifth, and sixth counts charged that the defendants did hire, retain, engage, and procure Stanley "to enter and engage to enlist as a sailor in sea service for," &c., (the description of the foreign power being varied, as in the first three counts.) The seventh, eighth, and ninth counts charged that the defendants did here retain, engage, and procure Stanley "to go and embark from a certain part of her Majesty's dominions, to wit, from the port of Liverpool, in the county aforesaid, for the purpose and with intent to be enlisted as a sailor in sea service for," &c., (the description of the foreign power being varied, as in the first three counts.) The tenth, eleventh, and twelfth counts charged that the defendants did hire, retain, engage, and procure Stanley "to serve and be employed in warlike operations by sea, in the service of and for, under," &c., (description of the foreign power varied as before.) The thirteenth, fourteenth, and fifteenth counts charged that the defendants did hire, retain, engage, and procure Stanley "to go and embark from a certain part of her Majesty's dominions, to wit, from the port of Liverpool, in the county aforesaid, in order and with intent to serve and be employed in warlike operations by sea, in the service of and for," &c., (description of the foreign power varied as before.) Then followed fifteen like counts as to the hiring, &c., of Benjamin Conolly, and fifteen like counts as to the hiring of Francis Glassbrook. The forty-sixth, forty-seventh and forty-eighth counts related to the hiring, &c., of one Thomas Matthews, and corresponded to the thirteenth, fourteenth, and fifteenth counts. The last three counts charged that the defendants did "attempt and endeavor to hire, retain, engage, and procure the said Thomas Matthews to go," &c., (as in the three preceding counts.) This indictment was afterward removed into the court of Queen's Bench, and the defendants pleaded "Not guilty;" and the case came on to be tried at the last assizes at Liverpool before the lord chief justice and a special jury. The facts proved were as follows: The defendants were partners in the firm of Jones & Co., ship-store dealers in Liverpool; a third partner was Thomas Bold. In the beginning of 1863 an iron steamer was building in the Clyde, which on the 20th of March was registered by the name of the Japan, with the name of Thomas Bold, of Liverpool, as sole owner. This register remained unaltered until the 23d of June, 1863, when it was closed, in consequence of information from the owner (by letter of that date) that the vessel had been transferred to foreigners. About the 24th of March, Stanley, Glassbrook, and Conolly were induced by a Captain Hedgecock to sign articles at the Sailors' Home, Liverpool, to serve in the Japan on a voyage from the Clyde to Singapore and home; Stanley as a cooper, Glassbrook as an able-bodied seaman, and Conolly as a boy. Hedgecock was to be captain. On signing the articles, which was done in the ordinary way before a shipping master, they were told by Hedgecock to apply at the office of Jones & Co. for further directions. They did so accordingly; got advance-notes, (one of which was also cashed at the office by the defendant Highatt,) and received directions to be at the passenger boat leaving for Greenock on the next evening, the 25th of March. The next evening they embarked, the defendant Highatt superintending; apparently—but of this there was no positive evidence—he had engaged and prepaid their passage. Their clothes had also been conveyed from the office to the steamboat. On arriving at Greenock they were transferred into a tug-boat, and thence on board the Japan. According to the evidence of one of the witnesses, the defendant Jones was on board the tug-boat superintending the transfer, &c. The Japan remained in the Clyde a few days completing for sea, and then quitted, under the command of Captain Hedgecock, whether nominally for a trial trip or upon her voyage to India did not appear. In point of fact, however, she proceeded into the British Chan-

nel, where she was fallen in with by a small steamer, which the Japan took in tow, and the two vessels then proceeded together to the French coast and anchored off Brest. At nightfall the Japan hauled alongside the small steamer and received from her guns, ammunition, &c. On board the small steamer was the defendant Jones, apparently taking some part in the disembarkation of the stores. The next day Captain Maury came on board the Japan, dressed himself in the uniform of the Confederate States navy, called all the hands aft and addressed them. He said "the ship was about to enter the confederate service, and to be called the Georgia; would they volunteer?" This was said in the presence of the defendant Jones, and in the enlisting, which subsequently followed, he was by Captain Maury's side persuading the men to enlist, taking their bounty for them, &c. Stanley, Glassbrook, Conolly, and others enlisted to serve for two years; others, however, refused, and returned to England in the small steamer, as also did the defendant Jones. Shortly afterward the ship hoisted the confederate flag, and under the name of the Georgia, made a voyage to the Cape of Good Hope, destroyed several vessels carrying the federal flag, and in October, 1863, returned to Cherbourg, whence Stanley, Glassbrook, and Conolly returned to Liverpool. Meanwhile their wives had received their bounty, and also regular monthly money, at Jones & Co.'s office, and to this office the men applied for means to return to the Georgia. Shortly, however, after such application they entered into communication with the North American consul, and thenceforward acted, the result of which was the present prosecution. The consul paid them wages and subsistence up to the date of the prosecution of the defendants before the magistrates in January, 1864; from that time they received the like weekly money from the solicitor to the Crown. The case as to Matthews was somewhat different. He had shipped on board the Japan at Greenock, had enlisted at Brest, and returned to Cherbourg, by which time a considerable sum was due to him as wages; he then came on leave to Liverpool, and when there applied to Jones & Co. for means to return to the ship.

By the defendant Highatt's instructions he went down to the Havre packet-boat at Liverpool, and there received from the defendant's clerk £3, with which, in fact, his passage was paid to Havre. On arrival, however, at Havre, he quarreled with the boatswain of the Georgia, and in consequence never rejoined the ship. The above facts were proved by the evidence of Stanley, Glassbrook, Conolly, and Matthews. A certified copy of the ship's register was put in (see 17th and 18th of Victoria, cap. 104, sec. 107,) to prove the ownership of the Japan, the identity of which with the vessel therein described was proved by the witness Glassbrook. The partnership of Thomas Bold with the defendants was proved by the manager of the bank at Liverpool. A Queen's printer's copy of the Queen's proclamation of neutrality, 13th May, 1861, was also put in to prove the fact of war, "of certain States styling themselves Confederate States," &c., which recites: "Whereas we are happily at peace with all sovereigns, powers, and states; and whereas hostilities have unhappily commenced between the government of the United States of America and certain States styling themselves the Confederate States of America." At the close of the case for the prosecution the counsel for the defendant submitted that there was no case, inasmuch as there was no proof of intent on the part of the persons hired to enter into the foreign service at the time when they were engaged by the defendants in this country. The point was reserved, and the lord chief justice, in summing up, said he should ask the jury to determine by their verdict whether the defendants, or either of them, procured the persons mentioned in the indictment, or either or any of them, to go and embark from this port for the purpose of being enlisted, entered, or engaged in the confederate service. There was no doubt that all the four persons engaged did enter and enlist on board a steamer, which was immediately afterward employed as a war steamer for the purpose of engaging in war against the northern States of America; and there seemed to be very little doubt that the defendants, both of them, had to do with these men leaving the port of Liverpool for the purpose of joining the ship. The question for consideration was, whether the defendants who procured the witnesses to embark at Liverpool did so for the purpose of their being enlisted and employed in the service of the Confederate States as a belligerent country, with whom this country was at peace, and toward whom this country was bound to observe strict neutrality. The jury found a verdict for the Crown. The verdict was then entered against the defendant Highatt on all the counts, and against the defendant Jones upon all the counts, except the last six. The defendants were required to enter into recognizances of £500 each, with two sureties of £100 each, to appear and receive judgment.

They now accordingly appeared in court, and the attorney general, the solicitor general, and Mr. Edward James, Q. C., (who, as attorney general for the county palatine, had conducted the prosecution,) with Mr. Hanen and Mr. Vernon Lushington, appeared on the part of the Crown; Mr. Temple, Q. C., and Mr. Baylis appeared for the defendant Jones; Mr. Brett, Q. C., and Mr. Mellish, Q. C., appeared for the defendant Highatt.

Notice had been given to the Crown, on the part of the defendants, that it was intended to move for a new trial, upon grounds set forth in the notice. The chief points intended to be raised on behalf of the defendants were, that notwithstanding the finding

of the jury that the defendants had procured the men to leave this country with an intention on the part of the defendants that the men should be induced at sea to enlist in the confederate navy, yet the verdict ought to have been entered for the defendants, because the case was not within the statute, inasmuch as there was no purpose or intent on the part of the men so to enlist when they quitted this country; and that the judgment ought to be arrested, because the indictment only stated that the men were to be enlisted to serve as sailors, and did not go on to allege that the service was to be on board a ship or vessel of war.

On the case being called,

Mr. Temple, Q. C., rose and addressed the court in these terms: If your lordships see no objection to the course we propose to pursue, we believe there need be no further discussion of this case. We understand that the attorney general, under the circumstances of this case, will not press for a greater sentence or judgment than that judgment should be entered that each defendant shall pay a fine of £50. That being so, if your lordships see no objection, the defendants will submit to such a judgment without further discussion.

The LORD CHIEF JUSTICE. Provided it be understood that the law has been vindicated, the court will not object, if the Crown consent to that course. We presume that the counsel for the Crown have fully considered the case, and are satisfied that this is the proper course to pursue.

The ATTORNEY GENERAL. Of course, we have gone fully into the case; and not only this, but the other cases which have arisen under the act. The government have not thought that it would be proper to press for a severe sentence in this the first case of the kind which has arisen. They have not thought it right to carry out the law in the other cases at all harshly, considering that they arose at a time when the law was not well understood; and they have not deemed it right to pursue a different course in this case. They therefore assent to the course proposed to be taken.

The LORD CHIEF JUSTICE. Then be it so. The verdict will stand, and a judgment will be entered against each defendant for a fine of £50. But let it be distinctly understood that the law has been vindicated, and that the court are fully sensible of the importance and necessity of upholding it; and that in any future case of the kind which may arise a more severe punishment may be inflicted.

Judgment was accordingly entered that each defendant pay to the Crown a fine of £50.

CASE OF WILLIAM RUMBLE.*

[From the London Times, April 26, 1864.]

COURT OF QUEEN'S BENCH, Westminster, April 25.

CASE OF THE RAPPAHANNOCK.

The Queen vs. Rumble.

Before the court sat to-day *in banco*, Mr. Justice Crompton charged the grand jury of Middlesex. Generally this is an affair of mere form, as bills are merely preferred before them. But on this occasion there was a case of great importance, in which it was expected that an indictment would be preferred—the case of the Rappahannock, the vessel purchased and fitted out for the confederates some time since.

The ship had, it may be recollected, belonged to the admiralty, and was sold by them last year, and was purchased by certain persons on the part of the confederate government, and the defendant was said to have been concerned in getting her refitted and sent to Calais, and also in getting men to embark on board of her with a view to their enlistment in the confederate service when they reached Calais. There was, it may be remembered, a preliminary inquiry as to the conduct of the defendant, Mr. Rumble, and the result was that the case was sent here for trial under the foreign enlistment act, and we understand that an indictment is being prepared, and was to be preferred at this sitting, but it was not quite ready and was to be preferred at the next. Knowing it was to be preferred, it became the duty of the learned judge to notice the case in his charge, and to direct them as to the law. The case, it will be observed, arises under the same statute as that to which the cases of the Alabama, the Alexandra, and the steam rams relate, and the main interest of the charge on the present occasion was in its indicating the opinion of the learned judge on the great question as to the construction of the act, which divided the court of exchequer in the case of the Alex-

* Referred to under the head of "Enforcement of Neutrality," subdivision "Prosecution of Rebel Agents," vol. II, pp. 464-479, and also under "Rebel Cruisers," subdivision "The Rappahannock," vol. II, pp. 725-734.

† Transmitted with dispatch from Mr. Adams to Mr. Seward, No. 672, April 26, 1864, vol. II, p. 733.

andra. Upon that question it will be seen the learned judge has declared his adhesion to the law as laid down by Mr. Baron Channell, one of the two barons who decided in favor of the Crown.

After the grand jury had been sworn, the learned judge addressed them at considerable length with reference to this case. He said that a question of great importance was to come before them under the foreign enlistment act, but, as the evidence was not yet complete, and the indictment was not yet to be preferred, it would be premature to enter into the observations of the learned judge upon the facts. As regarded the construction of the act, he commented, in the first instance, upon the first section with reference to enlistment, which enacts that "if any person whatever" (foreigner or British subject) within the United Kingdom, or any part of her Majesty's dominions elsewhere, shall hire, retain, engage, or shall attempt or endeavor to hire, retain, engage, or procure any persons whatever to enlist, or enter, or engage to enlist, or serve, or to be employed in the service of any foreign power, &c., as a soldier, sailor, &c., either for or under, or in aid of any foreign power, &c., or to go, or to agree to go, or embark from any part of her Majesty's dominions, for the purpose, or with intent to be so enlisted or employed, &c., every person so employed shall be guilty of a misdemeanor. Commenting upon this enactment, the learned judge observed that it appeared to him that the hiring or agreeing to retain must be in the United Kingdom or other dominions of her Majesty, and that if the person went abroad into a foreign country, and there prevailed upon a man to enlist in the service of the belligerent, that would not be a breach of the act. The question, then, would be whether the grand jury were satisfied that the defendant, either directly or indirectly, whether personally or as one of a party, either alone or by his agents, they being engaged in one common design, and acting in pursuance of that design, did in this country enlist, or procure, or attempt to retain or procure any persons to enlist, or engage to enlist, or enter into the confederate service; or whether he merely went abroad to Calais and there procured persons to enlist, which would not be any violation of the act. Coming then to the celebrated seventh section, on which the cases of the *Alabama*, the *Alexandra*, and the steam rams turn, and which runs thus:

"That if any person within any part of the United Kingdom, or in any part of her Majesty's dominions, shall, without her leave, equip, furnish, fit out, or arm, or attempt or endeavor to equip, furnish, &c., or shall knowingly aid, assist, or be concerned in the equipping, furnishing, fitting out, or arming of any ship or vessel, with intent, or in order that such ship shall be employed in the service of any foreign state, &c., or shall within the United Kingdom issue or deliver any commission, &c., such person shall be deemed guilty of a misdemeanor"—

The learned judge observed that this section had raised great doubts in very learned minds, but he was disposed to agree in the judgment of Mr. Baron Channell in the case of the *Alexandra* in the exchequer; and his view was that if the equipment was of such a nature as to make the vessel more available for warlike purposes, that would be sufficient to justify the grand jury in finding a true bill. Of course that must be done in this country, and there was no dispute that as to the equipment whatever was charged had been done here. If, then, the grand jury thought that there had been in this country either such a hiring or endeavoring to hire, or such an equipment or attempting to equip, as he had explained, they ought to act on that view of the law for the purpose of finding the bill, leaving the court to deal with such questions of law as might arise on the trial of the indictment. With reference to the evidence, the learned judge said he believed that there would be other evidence than that contained in the depositions; and, in point of fact, as already stated, the bill not being ready, was not preferred at this sitting, and will be preferred at the next, on the 4th of May.

The delivery of the charge occupied a considerable time, but for the reasons already given, the above is all that is necessary to say of it.

[From the London Times of May 4, 1864.]

COURT OF QUEEN'S BENCH, Westminster, May 3.

THE CASE OF THE RAPPAHANNOCK.

The Queen vs. Rumble.

The bill of indictment in this case has been completed and will, it is understood, be preferred before the grand jury this (Wednesday) morning. The defendant was committed in January last on charges under the foreign enlistment act, that he did unlawfully hire, retain, engage, and procure and attempt and endeavor to hire, retain, engage, and procure divers persons to enlist and enter and engage to enlist and serve and be employed in the service of and for and in aid of certain foreign

states, provinces, and people, commonly called the Confederate States of America, and of the persons assuming to exercise the powers of government in and over the said states, &c., as sailors and otherwise in sea service for, under, and in aid of the said foreign states, &c., and the persons assuming to exercise powers of government in and over the said states, &c., and to go and agree to go and embark from the port of Sheerness for the purpose and with the intent to be enlisted, contrary to the statute in such case made and provided. And, further, that he did unlawfully, and without the leave and license of her Majesty, equip, furnish, and fit out, and knowingly aid and assist, and was concerned in the equipping, furnishing, and fitting out of a certain ship called the Victor, otherwise called the Scylla, otherwise called the Rappahannock, with intent and in order that the ship should be employed in the service of certain foreign states, provinces, and people, commonly called "the Confederate States of America," and of the person assuming to exercise powers of government over the said states, provinces, &c., and with intent to cruise and commit hostilities against the United States of America and the subjects and citizens of the said United States, with whom her Majesty was not then and is not now at war, contrary to the statute in such case made and provided. The charges thus made, it will be seen, involve some of the questions raised in the case of the Alexandra as to equipment, and also other questions under the provisions in the statute relating to enlistment, and, though the charges as thus stated by the magistrates appear short and simple enough, they are necessarily for the purposes of indictment expanded into a great number of counts to hit the various words of the statute under each head of charge. The substance of the evidence on which the prisoner was committed was this: In November last a steamer, called the Scylla, had been sold by the admiralty and had got into the hands of parties who, it was said, were fitting her out for the confederates and sending her over to Calais, inducing men to go over there to be engaged as her crew. Several witnesses swore that they had seen the defendant at Sheerness, and had been engaged by him to work on board the ship. She was taken over to Calais, and there hoisted the confederate flag, with thirteen stars, and the name was then altered to the Rappahannock. There was a captain on board named Ramsay, and a chief engineer named Ferguson, and the owner appeared to have been a person named Pearson. The defendant in what he did said he acted for the owner. The ship's officers had a gray uniform and glazed caps. It was quite clear that the steam-engines were in a bad state, and required repair, and it rather appeared that some of the men engaged on board by the defendant were engaged for the purpose of repairs before the steamer should put to sea. Some of the men, however, went over in her to Calais. The defendant was also there, and the repairs were continued there, and there were a great many boiler-makers on board. She had six boilers, but only three were in a working state, and it was clear she required very extensive repairs. There was not much evidence as to any particular warlike equipments of the vessel, beyond the evidence of her general character, but one witness, at all events, stated that she had what are called "fighting boilers," but he could not say if she had a magazine. There was, however, provision for one hundred and fifty hammocks on board, and more than one witness stated that at Calais the men were mustered and wore uniforms, and that the captain said the vessel was a "confederate war steamer," and one witness spoke positively to the defendant's asking him to help to engage a crew for the steamer. To-day the following further evidence was sent up to go before the grand jury:

Two men, named Shaw and Hall, stated that in the middle of November last they heard that the screw steamship Scylla wanted several stokers at Sheerness. They applied to the defendant, and said to him, "We hear you are engaging men for the Scylla, and he said, "Yes," and asked them questions, and told them that the vessel belonged to a friend of his, who had asked him to recommend some men for her, and he preferred men who had been to sea, adding, however, that he knew nothing about the ship. The defendant did not engage them (they said) because they had not been to sea before, but he gave them a note to a Mr. Ferguson, the chief engineer, whom they saw on board the vessel, with the defendant, and the latter introduced them to a Mr. Pearson, as the owner, and Mr. Ramsay, the captain, by whom they were engaged at 6l. a month, but, finding that the other men were only engaged for a fortnight, they did not appear to relish the service, and at once left the ship. One Thompson, an engineer, stated that, hearing at the end of November that an engineer was wanted for the Scylla, he saw the defendant and applied to him for the "berth," and the defendant offered him \$1,250 a year as second engineer, and asked him if he knew of any boiler-makers, and promised to settle with him as to the amount to be paid to his wife for her subsistence during his absence at sea. The ship was then, the defendant said, at Calais, and the men were to have a gray uniform, and he also said that, "as her tubes were in a frightful condition," she would probably lie there, at Calais, for a month or six weeks.

Such was the new and further evidence in the case furnished to-day. When the grand jury first met a few days ago the indictment was not prepared nor the evidence completed, and we were not in a position to present a complete report of the case as it would present itself to the grand jury, and it was premature to give a full report of

the charge of the learned judge, Mr. Justice Crompton, whose duty it was to charge the grand jury on that occasion. We are now, however, in a position to present the case as it will be presented to the grand jury this morning, and we therefore give a fuller report of the charge of the learned judge, as the case is now completed, and the indictment as it is to be preferred is now settled and prepared. The view taken by the learned judge is the more important as he is the senior puisne judge of this court. It may be as well to explain how it is that the case comes into this court, while the cases of the *Alexandra* and the *rams* have gone into the court of the exchequer. That court has exclusive jurisdiction where the revenue is directly concerned and the Crown claims a specific pecuniary duty or penalty, or a forfeiture, as in the case of the *Alexandra*. But this is a criminal court, and the present is a criminal charge. It is a criminal prosecution, in which the Crown claims no specific penalty, but seeks to impose fine or imprisonment. The act provides that all offenses under the act made punishable as misdemeanors, if committed in England, may be tried in the court of Queen's bench at Westminster; or at the assizes, or session of oyer and terminer (as the central criminal court); and it is further provided that offenses committed out of the United Kingdom may be prosecuted in the King's bench. And it is also enacted that any penalty or forfeiture inflicted by the act may be prosecuted, sued for, and recovered by action of debt or information in any of the superior courts at Westminster—that is, either by action in the King's bench or by information in the exchequer. Now, the proceedings in the case of the *Alexandra* was merely for a forfeiture, and so was necessarily by way of information in the exchequer, where alone such suits can be instituted, and which has exclusive jurisdiction in revenue matters, though not in civil suits (as debts for penalties or criminal proceedings, as indictments for misdemeanour,) arising out of and relating to revenue; and many years ago, in Lord Denman's time, when Sir J. Jervis was attorney general, this court assumed and exercised jurisdiction in this way over a matter of a criminal character, although arising out of a revenue matter, which it was insisted brought the case within the exclusive cognizance of the court of exchequer. And, on the other hand, it has been held in the court of exchequer that an information for penalties or forfeiture, though penal, is not criminal, distinguishing it from an indictment for a misdemeanor, such as this is, which is clearly a criminal matter. But then, as this court only has jurisdiction on the ground that the proceeding is criminal, there may arise a grave question as to how the ruling of the lord chief justice (who probably will try the case) or of the whole of the court, as to the law of the subject, can be reviewed in a court of error. The question is of the more importance, because, should the ruling of the verdict be in favor of the defendant, the case being a criminal case, there can be no new trial moved for against the defendant. And, again, it is not improbable that on account of the extreme importance of the case the attorney general may think it proper to pray a "trial at bar," which we believe he has a right to demand, and the court would be bound to grant, and in that case four judges would sit to try the case, and all of them will have a right to address and direct the jury, although it is probable that (unless in case of difference of opinion, which would be awkward) they will speak through the lord chief justice. In case they should differ in opinion, if only one should differ, he would probably acquiesce in the ruling of the majority; but if it should unfortunately happen that the judges are, as in the exchequer, equally divided—two and two—then there will be beheld the novel spectacle of two judges charging the jury one way and two the other, in which case we need hardly say the jury would be considerably perplexed. But, on the other hand, assuming the judges to be unanimous, as it is certain neither party will acquiesce in the ruling, the question as to the mode of reviewing it will arise with all the greater force if the trial is at bar; because, as all four judges sit, it would be, of course, no use to resort to them again by motion for a new trial, even should the verdict be against the defendant, who alone in a criminal case can move for a new trial, even in a case merely of misdemeanor. The only mode of reviewing the ruling can be a resort to a superior court, and the question is what that resort can be. It seems to have been long a settled opinion in the profession that a bill of exceptions will not lie in a criminal case—a point decided in Sir Harry Vane's case, though, as that was a political case, and at an unhappy period of our history, it is not a decision of any great authority. Lord Hardwicke, than whom there could hardly be a higher authority, is recorded to have stated on the bench that he had known bills of exceptions in revenue informations, although the contrary was taken for granted in the *Alexandra* case, but, then, as already mentioned, it is well settled that a revenue information is not a criminal case, whereas the present clearly is so. In the course of the monster trial, the British Bank case, Lord Campbell, after great consideration, laid it down that a bill of exceptions will not lie in a criminal case, and in Train's tramway case at Kingston, Lord Chief Justice Erle expressed a similar opinion. There can be no doubt that this is the prevailing impression of the profession, and the lord chief justice of this court has been heard to express the same view of the law. It was partly on that view that the court of appeal for Crown cases reserved was established by statute ten or twelve years ago. And the question may be whether the only mode of reviewing the opinion of this

court on the law of the subject is not by special case to be sent up to that court under the authority of that act, in which cases all the fifteen judges may be summoned to hear the case. The distinction between that jurisdiction and that which is exercised by a court of error on a bill of exceptions is that in the latter case the suitor takes such exceptions as he pleases, and (if it be correct in point of fact) it must be admitted, and the case is only considered as it bears on that particular exception. But a case to the court for Crown cases reserved is stated by the judge at his discretion, and to raise such legal questions as he deems worthy of consideration. A great difficulty, however, arises as to the court for Crown cases reserved, viz., that the act expressly confines its jurisdiction to "criminal trials in any court of oyer and terminer and jail delivery;" but the present indictment is in this court of Queen's Bench. The act recites that it is expedient to provide a better mode than that now in use for deciding any difficult question of law which may arise in criminal trials in any court of oyer and terminer and jail delivery, and then its enacting clauses are expressly confined to those courts. Now, the central criminal court and the assize court are courts of oyer and terminer, but this court is not. It would seem, then, that there can be no resort to the court for Crown cases, and we are thrown back upon the question whether a bill of exceptions will lie in a criminal case, which has never yet been formally and finally decided by a superior court, or a court of error. The only other mode of carrying the case to a court of error is by special verdict, which applies to all cases, civil or criminal, and in which the facts as found, or supposed to be found, by the jury are set forth specially in the verdict, so as to be thus "placed on the record," with a view to its being carried up to a higher court; and thus the case can be carried to the court of exchequer chamber and the House of Lords. That, however, raises this most important question, that, as actual intent (as apart from an intent implied or presumed in law) is always necessarily and absolutely for the jury, the case, so far as it rests on actual intent, will be practically concluded by their verdict—at all events, if for the defendant; for no new trial can be granted by this court against a defendant in a criminal case, and the court for Crown cases can grant no new trial, and the lord chief justice, in stating the case on the special verdict, must state the fact as to the actual intent according to the finding of the jury. And then great practical difficulties may arise in framing the special verdict, as the case is one in which probably neither party will waive strict law, and as strict law, however numerous or complicated the facts, the jury must find them all before they leave the bar; and no inference can be drawn upon the facts so found, nor any amendment made; and all the provisions of the common law procedure act as to special case, &c., apply only to civil proceedings. The learned judge, in charging the grand jury, glanced, it will be seen, more than once at the possibility of the case being carried in some way before a court of error, though, of course, he was not called upon to consider or discuss how that object could be attained, if it can be attained in any way. The indictment is as follows: It contains about one hundred and sixty counts. Of these the last thirty charge the defendant with equipping, furnishing, and fitting out the *Rappahannock*, with attempting and endeavoring to equip, &c., with procuring the equipping, &c., and with knowingly aiding and assisting, and being concerned in the equipping, &c., varying the intent in conformity with the words of the 7th section of the statute. Of the other counts, all but twenty charge the defendant with hiring, &c., various persons to serve on board the ship, in violation of the 2d section, these counts being directed against acts alleged to have been committed by the defendant at Sheerness. The remaining twenty counts are directed against other acts of enlistment, &c., alleged to have been committed by the defendant at Calais, and charged him with a misdemeanor in procuring certain persons, being natural-born subjects of the Queen, to serve on board the ship within the first branch of the 2d section; for it is observable that while under that section, so far as it relates to persons enlisting others, it is essential that the unlawful acts should have taken place within the United Kingdom, no such limitation is imposed in respect of the misdemeanors committed by the persons agreeing to enlist themselves. And now, having thus placed before our readers all the materials of the case as it will be presented to the grand jury to-day, we present a full report of the charge of Mr. Justice Crompton, which, delivered by anticipation last week, is supposed to be delivered with reference to the indictment presented to-day. The learned judge began by observing to the grand jury that they were called upon on this occasion to the discharge of a most important public duty. From the most ancient period of our history this court had exercised a criminal jurisdiction through the medium of a grand jury of the city of Westminster, although, for the most part, this jurisdiction was exercised in cases of a public character and concerning the government of the country. There was something in the constitution of the tribunal peculiarly fitting it to deal with cases of that character—state prosecutions, or prosecutions instituted on the part of the government. It was far better that these cases should be dealt with by one of the ordinary constitutional tribunals of the country, and in the ancient established course, rather than by means of special commissions issued for the trial of the particular cases, and there was something in the composition and character of a Westminster jury well fitting them

for the consideration of such cases. The case which was to come before them was one of great complexity in point of law, and great difficulty in point of law. It was a prosecution under the foreign enlistment act against a Mr. Rumball, who had been proceeded against before the magistrates of Kent, and had been committed upon two charges, as to enlistment and as to equipment. Being a case of misdemeanor, the prosecutors may join different charges in the same indictment. As the matter arose in the county of Kent, *prima facie*, you might suppose that you would not have jurisdiction, but the act expressly provides that all offenses under the act committed in England may be tried in the Court of the King's Bench at Westminster, and if committed out of the country may be tried in any superior court of her Majesty's dominions competent to try criminal cases. The grand jury would, of course, consider each offense separately, under that part of the act to which it referred; but it would be well to look at the general scope and purview of the act, as explained in its title and preamble. It is entitled an "Act to prevent the enlisting or engagement of his Majesty's subjects to serve in foreign service, and the fitting out or equipping in his Majesty's dominions vessels for warlike purposes without his Majesty's license." And the preamble recites, "That the enlistment or engagement of his Majesty's subjects to serve in foreign service without his Majesty's license, and the fitting out and equipping and arming of vessels by his Majesty's subjects, without his Majesty's license, for warlike operations in or against the dominions or territories of any foreign prince, state, &c., may be prejudicial to, and tend to endanger the peace and welfare of, this kingdom."

Now that explains the "mischief" the act was intended to "prevent," and you can hardly help feeling that it is of immense importance that the government of the country should be enabled to preserve neutrality, and take measures to prevent what may tend to endanger our relations of amity and peace with any foreign state. That, then, is the "mischief" of the act. It would be absurd to suppose for a moment that gentlemen in your position would, in dealing with the subject, be at all influenced by any sympathies you may have with either of the parties in the contest. One may feel a natural sympathy with either party, fighting from what they may deem patriotic motives; but one can hardly feel any sympathy with those who are engaged in transactions of this nature for the mere sake of making money, and of this you will find, if I mistake not, some indications in the evidence. Well, the general object of the act being what I have indicated, the second section is directed against enlistment. I may observe of the whole of the act that it is extremely ill penned, and hence of great difficulty in construction. The first part of the second clause does not directly apply to the present case, for it is directed against persons enlisting themselves in a foreign service: "That if any natural-born subject of his Majesty, without license, &c., shall enlist or enter himself, or agree to enlist or enter himself, to serve as a sailor or marine, or to be employed or engaged, or shall serve on board any ship or vessel used or fitted out, or equipped, or intended to be used for any warlike purpose in the service of, or for, or under, or in aid of, any foreign power, &c., or shall engage, contract, or agree to go, or shall go, to any foreign country, with an intent, or in order to enlist or enter himself to serve, or with intent to serve, in any warlike operation in the service of any prince," &c.

Then the clause proceeds: "Or if any person whatever within the United Kingdom shall hire, retain, engage, or procure, or shall attempt or endeavor to hire, &c., any person whatever to enlist or to enter or engage to enlist or to serve, or to be employed in any such service as aforesaid as an officer, soldier, sailor, or marine, for or in aid of any foreign prince, state, &c., or to go and agree to go, &c., every person so offending shall be deemed guilty of a misdemeanor."

Now, under this part of the section, the offense is confined to the United Kingdom, and the hiring, enlisting, or attempting to enlist, must be here, so that if a subject goes abroad, and there prevails on persons to hire or enlist themselves in the foreign service, that is not within the act. But, then, by the latter part of the section, if a person is induced to go abroad for the purpose, the offense may be committed here, though the actual enlistment is in France. Then the words are, you will observe, "as officer, soldier, or marine," and the case will, probably, if at all, come under the word "sailor," and you will have to consider what that means, and whether it applies to the present case and includes persons employed in the management of steamers. We cannot help remembering that in 1819, when this act was passed, steamers were not used in warlike service, and in general the word "sailor" means a person who navigates a sailing vessel and manages the sails, and it may be a question whether it applies to persons engaged on board steamers, such as engineers, boiler-workers, or the like. Then, again, you will have to consider whether the person has been engaged, or attempted to be engaged, as part of the crew, or merely for some temporary purpose, as to repair a boiler or the like. You would, probably, hardly think that the retainer of a man to put a boiler right was an enlistment within the act. You will, therefore, consider the nature of the engagement entered into. The latter part of the enactment is quite general as to the place of the enlistment, if there is an endeavor here to induce a person to go abroad with a view to his being there enlisted or engaged, &c., so that

the offense may be committed although the engagement was in France. But then you must be satisfied that there was an endeavor here to induce a person thus to go abroad with that purpose. And you will distinguish this from a mere engagement of a person here to go to France for a mere temporary purpose, as to repair boilers or the like. There is another element which may enter into the case. In charges of this kind, when persons join together for a common purpose—to equip a ship or to hire a crew—it may be difficult to show that the defendant did any particular act. But in a case of that kind, where several persons are so joined together in a common design, what each of them does in the carrying out of such common design is the act of each and every one of them. In cases of this kind one man does not, and cannot, do everything himself. But when several persons combine to commit a misdemeanor, (as all are principals in cases of misdemeanor,) the act of one is the act of all. And you will, therefore, consider the complicity of the defendant in the acts of other persons with whom he may have engaged in a common design. And upon this section the question will be whether you are satisfied that the defendant, directly or indirectly, by himself or by any one else as his agent, or by others who were with him engaged in a common design, and acting in pursuance of that design, did in this country engage, or endeavor to engage, any persons in the foreign service, or induce any one to go abroad with the view of being so engaged. Now, as to the second head of charge, the seventh section, which relates to it, is one of considerable difficulty, and the court of exchequer, after an argument—one of the ablest ever heard in Westminster hall—were equally divided as to its construction. I do not presume to give a positive opinion upon it, or to bind myself in this court or in any higher tribunal before which the question may be carried; but, at the same time, I am bound to direct you in the matter so far as to tell you what will or will not be sufficient to enable you to find a bill in this case. The section runs thus: “That if any person within the United Kingdom shall, without leave, &c., equip, furnish, fit out, or arm, or attempt or endeavor to equip, &c., or procure to be equipped, &c., or shall knowingly aid, assist, or be concerned in the equipping, furnishing, fitting out, or arming of any ship or vessel, with intent or in order that such ship or vessel shall be employed in the service of any foreign state, &c., as a transport or storeship, or with intent to cruise or commit hostilities, &c., he shall be guilty of a misdemeanor.”

Now, I don't know whether precisely the same question which arose in the *Alexandra* case will arise before you. That case was the case of a ship in course of building; this is the case of a vessel already built, and sold in a complete state, and built as a war ship. But one great question which arose in that case may arise here—whether it is necessary under this clause that the vessel should leave, or be meant to leave, our ports in a state in which she would be able instantly to commit hostilities. And one part of the court of exchequer seemed to think that no equipment not necessarily warlike would be within the act, and therefore that no equipment—a mainsail, for instance, which would be equally useful to a merchant vessel, would be sufficient, even with the prohibited intention, to create the offense within the act. But my opinion is that it would be so, supposing you are satisfied that it was intended for warlike purposes; and I am also of opinion that the intention need not be proved by the particular character of the equipment, and may be proved in other ways; and that it would be enough to bring the defendant within the act that he was “concerned” in such equipment—that is, knowingly concerned in it with such an intention and design. The words in the enactment on which the case will depend are these: “knowingly concerned in the equipment;” and if, for instance, it is made out to your satisfaction that the ship was intended to be engaged in warlike operations in the service of the foreign state, and there was a furnishing or fitting out of the vessel for war with that intention, and the defendant was knowingly concerned in it with that intention, then the offense was committed. It seems to me that it cannot be necessary that there should be a complete equipment, or that you should wait until the last gun is put on board; for then you may be too late, and the scope of the act is prevention. No doubt the act applies only to equipment, &c., necessary or useful for purposes of war; but if there is such an equipment, with the intent, and it makes the vessel available for warlike purposes, even although it might also be useful for mercantile purposes, then the offense has been committed. And if the defendant was directly or indirectly, by himself or others, with his privy, concerned in such an equipment, that is sufficient to lead you to find the bill. I think, if there was a beginning to equip, that would be sufficient, although the completion of the equipment was prevented; and it is not necessary that the vessel should be in a state to commence hostilities. I take the same view of the law as Mr. Baron Channell, whose judgment in the *Alexandra* case was to the effect I have stated. I do not think that because a ship may not be in the condition of being so armed as to be able to commence hostilities a person may not have been “concerned in” equipping her. These are very general words, and I do not think it necessary that the actual equipment should be directly of a warlike character, if it tended to assist the completion of the vessel as a sea-going ship, provided you are satisfied that there was the intent that it should be used for warlike purposes. If the equipment is of a warlike character, of course it will be evidence of the intent. But

that is not the only and necessary evidence of the intent, and though the equipment itself is of a doubtful character—as hanging up hammocks, &c.—the intent may be shown in some other way; and if it is shown, then an equipment not in its own nature necessarily warlike—as the fitting up with hammocks or a particular kind of boilers—may be within the act. I do not know exactly how the evidence will shape itself, nor what is the particular nature of the equipment charged; but I advise you to find a bill if you are satisfied that in the sense I have explained the defendant was “concerned” in equipping the vessel so that the vessel would be available for warlike purposes. It may be difficult in many instances to say what would or would not be for warlike purposes. A mainsail, for instance, may be as useful for warlike purposes as anything else; but the great thing is the intention that the vessel shall be used for warlike purposes by a belligerent; and that, I repeat, need not be proved by the particular nature of the equipment. But if the equipment is itself warlike, of course that is strong evidence to show the intention, and in that view may be very important. But, as a question of law, I am inclined to think that if the intention is made out otherwise, then the equipping of the vessel in such a way as that the vessel would be available as a vessel of war—that is, if it would be as useful to a war vessel as to any other—would be a sufficient offense within the act, coupled with the intent; that is, supposing you are satisfied that the intent was to send the vessel out to sea “with intent, or in order that such ship should be employed in the service of any foreign power,” &c. After recapitulating his direction upon the law, the learned judge adverted to the evidence, observing that it appeared to him on some points somewhat scanty, but as it was to be added to he could hardly say anything upon it beyond this—that the jury must see that there was a *prima facie* case—that is, such as, if not answered, would be sufficient to sustain the charge. It was most important (he observed in conclusion) that the matter should be carefully investigated and the law settled upon the subject, so that the law, if insufficient, should be altered. The grand jury would adjourn to some convenient day in term, and when the bill was presented they would consider it with the evidence, in accordance with these directions, and if they found the bill they would present it to the court.

[From the London Times, May 5, 1864.]

COURT OF QUEEN'S BENCH, *Westminster*, May 4.

THE CASE OF THE RAPPAHANNOCK.

The Queen vs. Rumble.

The indictment in this case, which was completed yesterday, was preferred before the grand jury to-day, and “found by them.” They met originally, it will be remembered, last Monday week, and were charged by Mr. Justice Crompton, the senior puisne judge of this court. There was no other case but this in which the depositions were returned, and the learned judge at considerable length explained his views of the law upon the subject. We yesterday gave a full report of his charge, and need do no more now than state that (as will have been seen by our readers) he expounded the law in a sense entirely opposite to that in which it has been laid down by the lord chief baron in the case of the *Alexandra*, and in accordance with the view taken of it by the two puisne barons, Channell and Pigott. There can be no doubt, and there is no doubt in the profession, that before delivering his charge Mr. Justice Crompton had conferred with some, at least, of the other judges of the court, at all events with the lord chief justice, in order to avoid the obvious scandal and inconvenience of the law being laid down at the trial in a sense different from that in which it had been laid down to the grand jury, an anomaly which in our ordinary courts of assize is avoided by the same judge who charges the grand jury afterward trying the cases in the Crown court. In the present instance, indeed, it is the court, and not any particular judge of it, before whom the case will be tried, and that whether or not it is a trial at bar, in which four judges sit. In theory of law, therefore, it was the court, in the person of Mr. Justice Crompton, which charged the grand jury, and he was only the organ of the entire court in expounding the law to the grand jury. The bill is preferred in the Court of Queen's Bench, and the court in which the bill is preferred charges the grand jury. It is on this very principle that the Crown has a right to demand a trial at bar, which is nothing more than the full court sitting at the trial, and each judge speaking for himself (if needs be) instead of by one, the lord chief justice. It may almost, therefore, be taken as an inference of law that there is a general conformity of opinion among the learned judges of this court as to the law on the subject; and, at all events, that is the most probable inference of fact. For the reason already stated, it applies with peculiar force to the lord chief justice who will try the case, and a circumstance which took place to-day strengthens the inference as regards another member of the court, Mr. Justice Mellor. That learned judge during the whole time the grand jury were engaged on the

bill was in attendance, ready, if called upon, to answer any question of law which might be propounded to him by the grand jury; and it can scarcely be conceived that he was prepared to answer such questions in a sense opposite to or different from that in which his learned brother the senior puisne judge of the court had already laid it down. The learning, experience, and reputation of Mr. Justice Crompton as a lawyer, would alone tend to lend great weight to his opinion, to which must be added his high position as the senior puisne judge of this court, and, we believe, of the entire bench. There is for all these reasons no doubt in the profession that the majority of this court are prepared to lay down the law in accordance with the view taken of it by Mr. Justice Crompton, so far as he gave expression to any decided opinion upon it, which, it will have been observed, he did very clearly on the general scope and purview of the act. With reference to the evidence—as it was not quite completed until yesterday—he of course was somewhat sparing in his comments, and he chiefly confined himself to explaining to the jury the legal principles which they would have to apply to the charges made.

The grand jury reassembled this morning, under the charge of the master of the crown-office, Mr. Norton, and the bill of indictment was then laid before them. It is of enormous length, containing not less than 166 counts; but it is in reality much less lengthy than it appears, and it is very materially less so in comparison than that in the case of the *Alexandra*. The explanation is this: In that case there was only one head of charge—for equipment—arising out of one single transaction, and yet there were 90 counts. In the present case there are two heads of charge—equipment and enlistment—and on the first head there are only 30 counts instead of 90, so that, as far as that goes, this indictment is only one-third of the length of the former one. Then, as to the second head of charge—enlistment—it is applied to 10 or 11 cases of enlistment—that is to the cases of as many as 10 or 11 men charged to have been enlisted by the defendant, and each of these is of course a distinct transaction in fact, so that the number of counts (about 130) devoted to this head of charge must be divided by 10 or 11, the number of the men alleged to be enlisted, in order to arrive at the real number of the counts on each case, which is not more than 12 or 13. Then the remaining 20 or 25 counts of the indictment are directed to the alleged offenses committed, in some of those cases, by procuring persons *abroad* to enlist. According to the charge of the learned judge, that would be no offense under the enlistment act, unless the counseling or procuring were in this country. But under the criminal law consolidated acts it is a misdemeanor in a British subject anywhere to counsel or procure another to break the law of his own country; and so under this set of counts it is proposed to meet the case of the defendant going to Calais and there causing men to enlist, which by the enlistment act itself would not be any offense in him, although it would be so in the men who enlisted, if they did so knowingly and with a view to enter into the confederate service. Such being the general scope and frame of the indictment, the frame of the particular counts upon the first head of charge as to equipment is of course similar to that of the counts in the *Alexandra* case; the “changes being rung,” so to speak, on each word of the enactment, creating a distinct offense, “equip,” “furnish,” “fit out,” “attempt to equip,” “attempt to fit out,” &c., the only difference being that the experience of the former case has enabled the learned counsel engaged for the Crown in the present case (Mr. Welsby) to eliminate two-thirds of the counts, and to retain those which are more likely to meet the facts. As to this, it will have been observed that Mr. Justice Crompton directed particular attention to those large and sweeping words in the enactment, “or knowingly be concerned in,” equipping, &c., in attempting to equip, &c., and laid it down distinctly that the party might be convicted on this, although there never was any actual or complete act of equipment; and he observed, that it was probably on the counts, framed on this enactment, the case might most depend. Upon the other head of charge as to equipment, various questions, it will have been seen, arise in this case which have not arisen before, viz: as to what is an “enlistment” as opposed to a mere temporary engagement for a temporary purpose, as repairs; or, again, what is enlisting as “a sailor” or “soldier,” and how far this applies to engineers or stokers on board steamers—points which probably never occurred to the framers of an act passed in 1819, before steam vessels were used as they now are in war. On each of these matters there is a separate set of counts—charging the attempt to enlist a man as a sailor—the inducing a man to go out to Calais to be enlisted as a sailor, &c. In this, as in the former case, the learned judge fully explained his view of the law, and Mr. Justice Mellor was to-day in attendance ready to answer any question that might have arisen. So clear and full, however, had been the direction of Mr. Justice Crompton to the jury that they felt no difficulty as to the law, and proposed no question to the learned judge. Their only difficulty seems to have been as to the facts, and as to some of the matters the learned judge observed that the evidence was rather scanty, though, of course, as he explained, all that was required for the grand jury was a *prima facie* case. The grand jury sat for several hours and examined a good many witnesses—as many, we believe, as 12 or 13—in fact, all, we believe, whose depositions were taken. In the result from what passed in court, it will be seen

that they "found" the whole bill, and it is a little singular that while they were sitting the court was engaged partly in an interesting discussion as to the nature of their functions.

After two o'clock, Mr. Justice Mellor and the master of the crown-office having returned into the full court, the foreman and several of the jurors appeared with the bill of indictment, and the master of the crown-office, addressing them, said: "Gentlemen, you find a true bill against William Rumble for misdemeanor?"

The foreman (handing in the bill.) "We do."

Mr. Justice Blackburn, the senior puisne judge present, (Mr. Justice Crompton being at the Guildhall,) then said: "Gentlemen, you are discharged, and the country is indebted to you for your services, which have been this time far more onerous and important than they usually are in your case."

The grand jury then retired.

The fact that they brought their bill into the full court, and presented it to the whole court, is important to be noted, because it points out the legal force of the fact that the indictment is preferred not before one of the judges of the court, under any commission directed to him, but before the court as an entire court; and, therefore, raises the legal inference that the charge was that of the whole court, though delivered by only one judge. So the trial, even if before the lord chief justice sitting alone, will be really before the court, and for this very reason it is that the Crown will ask that all four judges should sit. It is not yet known that the Crown will ask it in this court, as it has asked it in the exchequer; and there is not as yet any reason to suppose that it will do so; neither is it yet known when the trial will take place, and whether it will come on at the short sittings after this term, or at the sittings after next term in June. On account of its extreme importance it is probable that the court may be called upon to fix some day for the trial, to insure its coming on as soon as possible, and, at all events, before the long vacation. The sittings after next term are the latest at which it can be tried before the assizes, (which commence immediately after those sittings,) and no doubt arrangements will be made to insure its trial—at the latest—at those sittings, if not before.

[From the London Times of December 6, 1864.*]

COURT OF QUEEN'S BENCH, *Westminster, December 5.*

Sittings at nisi prius, before the lord chief justice and a special jury.

THE CASE OF THE RAPPAHANNOCK.

The Queen vs. Rumble.

This was an indictment, under the foreign enlistment act, against an officer in her Majesty's dock-yard at Sheerness, for assisting in the manning and equipment of a vessel of war, with intent that she should be engaged in the service of the Confederate States. The case had arisen thus: In November last year a war steamer, called the *Scylla*, a gunboat of 500 tons, carrying six guns, was sold by the admiralty at Sheerness. Soon afterward she was found to have got into the hands of persons who were fitting her out for the confederates; and, in fact, she was taken over to Calais, and there hoisted the confederate flag, and was called the *Rappahannock*. An inquiry before the magistrates was thereupon instituted by the government, which was conducted by Mr. W. V. Harcourt, and the result was, that in January last the defendant was committed for trial on charges under the foreign enlistment act: "That he did unlawfully hire, retain, engage, and procure, and attempt and endeavor to hire, retain, engage, and procure, divers persons to enlist and enter and engage to enlist and serve and be employed in the service of and for and in aid of certain foreign states, provinces, and people, commonly called the Confederate States of America, and of the persons assuming to exercise the powers of government in and over the said states, &c., as sailors and otherwise in sea-service for, under, and in aid of the said foreign states, &c., and the persons assuming to exercise said powers of government in and over the states, &c., and to go and agree to go and embark from the port of Sheerness for the purpose and with the intent to be enlisted, contrary to the statute in such case made and provided." And, further, that he did unlawfully, and without the leave and license of her Majesty, equip, furnish, and fit out, and knowingly aid and assist, and was concerned in the equipment, furnishing, and fitting out of a certain ship called the *Victor*, otherwise called the *Scylla*, otherwise called the *Rappahannock*, with the intent and in order that the ship should be employed in the service of certain foreign states, provinces and people, commonly called the Confederate States of America, and of the persons assuming to exercise powers of government over the said states, prov-

* Transmitted with dispatch from Mr. Adams to Mr. Seward, No. 839, December 8, 1864, Vol. II. p. 486.

inces, &c., and with intent to cruise and commit hostilities against the United States of America and the subjects and citizens of the said United States, with whom her Majesty was not then and is not now at war, contrary to the statute in such case made and provided. The charges thus made, it will be seen, involved some of the questions raised in the case of the *Alexandra* as to equipment, and also other questions under the provisions in the statute relating to enlistment; and though the charges as thus stated by the magistrates appear short and simple enough, they were, necessarily, for the purposes of indictment, expanded into a great number of counts, to hit the various words of the statute under each head of charge. To understand the charges against the defendant and the indictment it is necessary to know the enactments of the statute. The statute (59th George III, chap. 69) is entitled "An act to prevent the enlisting or engaging of his Majesty's subjects to serve in a foreign service, and the fitting out or equipping in his Majesty's dominions vessels for warlike purposes, without his Majesty's license;" and the preamble recites that "the enlistment, &c., or equipping, &c., for warlike operations in or against the dominions of a foreign state may be prejudicial, and tend to endanger the peace and welfare of the kingdom;" and then the second section provides that "if any natural-born subject of his Majesty, without the leave and license of his Majesty, shall enlist or enter himself to enlist, or shall agree to enlist, &c., to serve as a soldier, or to be employed, or shall serve in any warlike operation, in the service of or for or under or in aid of any foreign prince, state &c.; or accept or agree to take or accept any commission, warrant, or appointment as an officer, or shall enlist or enter himself, or shall agree to enlist or enter himself, to serve as a sailor or marine, or to be employed or engaged, or shall serve in or on board any ship or vessel of war, or in or on board any ship or vessel used or fitted out, or equipped, or intended to be used for any warlike purpose, in the service of or for or under or in aid of any foreign power, prince, state, &c., or engage, contract, or agree to go, or shall go, to any foreign state, country, &c., with an intent or in order to enlist or enter himself to serve, or with intent to serve, in any warlike or military operation whatever, whether by land or sea, in the service of or for or under or in aid of foreign prince, state, &c., or as an officer or a soldier, or in any other military capacity, or as an officer, or sailor, or marine, in any such ship or vessel as aforesaid, although no enlisting money or pay or reward shall have been or shall be in any or either of the cases aforesaid actually paid to or received by him, or by any person to or for his use or benefit; or if any person whatever within the United Kingdom of Great Britain and Ireland, or any part of his Majesty's dominions elsewhere, &c., shall hire, retain, engage, or procure, or shall attempt or endeavor to hire, retain, engage, or procure any person or persons whatever to enlist, or enter, or engage to enlist, or to serve or to be employed in any such service or employment as aforesaid as an officer, soldier, sailor, or marine, either in land or sea service, for or under or in aid of any foreign prince, state, &c., or to go or to agree to go or embark from any part of his Majesty's dominions, for the purpose or with intent to be enlisted, entered, engaged, or employed as aforesaid, whether any enlisting money, pay, or reward shall have been or shall be actually given or received or not—in any or either of such cases every person so offending shall be deemed guilty of a misdemeanor," &c. Then comes the celebrated section 7 as to equipment of vessels:

"That if any person within any part of the United Kingdom, or in any part of his Majesty's dominions beyond the seas, shall, without the leave and license of his Majesty for that purpose first had and obtained as aforesaid, equip, furnish, fit out, or arm, or attempt or endeavor to equip, furnish, fit out, or arm, or procure to be equipped, furnished, fitted out, or armed, or shall knowingly aid, assist, or be concerned in the equipping, furnishing, fitting out, or arming of any ship or vessel with intent or in order that such ship or vessel shall be employed in the service of any foreign prince, state, &c., or shall within the United Kingdom or any of his Majesty's dominions, &c., issue or deliver any commission for any ship or vessel to the intent that such ship or vessel shall be employed as aforesaid, every such person so offending shall be deemed guilty of a misdemeanor, &c., and every such ship or vessel, with the tackle, apparel, and furniture, together with all the materials, arms, ammunition, and stores which may belong to or be on board of any such ship or vessel, shall be forfeited."

Such are the principal provisions of the statute on the subject. It is to be observed that, as the vessel got safely away, it was impossible to take proceedings, as in the case of the *Alexandra*, for a forfeiture. Such proceedings would have been, as in that case, in the court of exchequer. The present proceedings were on the penal part of the above enactments, which not only entail a forfeiture, but also render the parties concerned punishable for a misdemeanor. Therefore, the proceeding is by way of indictment and in this court. The indictment was one of enormous length, comprising 166 counts, of which it may suffice to give a brief but careful analysis. In a general way, it may be said to be divided under two heads—the first and larger portion relating to the enlistment of men; the second, as to the equipment of the vessel. The general analysis is this: The first ten counts charge the defendant with an offense under the second section, in hiring, &c., one Maloney. The 110 following counts charge him with a similar offense with reference to the ten other men. The next 16 counts charge

him under the same section with counseling and procuring four of the men to enlist and enter themselves to be employed in the confederate service. The remaining seven counts charge him under the seventh section with equipping, furnishing, or fitting out the vessel, or with attempting to equip, fit out, or furnish her. This general analysis, however, will hardly suffice to enable the reader to follow the case without a more particular analysis. The first six counts charged that the defendant did procure, &c., one Maloney to enlist, &c., and to engage to enlist, &c., and to go and embark with intent to be enlisted, &c., (varying the counts to meet the words of the statute,) "as a sailor on sea service" in aid of the Confederate States. The next four counts, from the seventh to the tenth, charge that the defendant did procure, &c., Maloney to be employed, &c., in warlike operations by sea in aid of the Confederate States. Then follow ten sets of similar counts, (11 to 124,) each set the same as the first ten, charging that the defendant did procure, &c., to be enlisted either "as a sailor in sea service," or in warlike operations by sea, one of ten other men, named Frith, Ginno, Hurford, Brooks, Bailey, Goode, Newton, Spendiff, Thompson, Hall, and Shaw. These are the counts under the statute—the foreign enlistment act itself. Then come four sets of counts, each of four counts, (121 to 136, inclusive,) which charge a misdemeanor at common law, in counseling four of these men—Brooks, Maloney, Goode, and Newton—to enlist and serve. Each of these sets of counts charges that the defendant did counsel and procure (one Brooks, &c.) a natural-born subject, &c., without the leave or license of her Majesty, to enlist, &c., and to serve, &c., "on board a certain ship of war intended to be used for warlike purposes" in aid of the Confederate States. Then came several sets of counts (137 to 166) upon the equipment clauses of the statute. The first set charge that the defendant, without leave or license, did equip, furnish, and fit out a certain ship with intent that the same ship should be employed in the service of the Confederate States, with intent to commit hostilities against the United States; and one count (139) charges that he did "equip, furnish, and fit out" a vessel with intent to commit hostilities against the United States. The next set (140 to 148) are the same as the last three, except that they charged that the defendant "did attempt and endeavor to equip" or "furnish" or "fit out"—one of the three counts charging an attempt to "equip," a second an attempt to "furnish," and a third an attempt to "fit out." Then follow a set of counts (149 to 157) the same as the last nine, (i. e., as 139 to 148,) except that they allege that the defendant did procure to be "equipped" or "to be furnished" or "to be fitted out," &c. The last set of counts (158 to 166) are the same as the nine preceding, except in alleging that the defendant "did aid and assist and was concerned in the equipping" or "the furnishing" or "fitting out" of a vessel with intent that the same should be employed in the service of the Confederate States, or with intent to commit hostilities against the United States. Such is the analysis of the numerous counts in the indictment. It only remains to give the first count as a specimen of their form and frame. It charges that the defendant, on the 24th of November, 1863, within the United Kingdom, at Sheerness, in the county of Kent, unlawfully and willfully did hire, retain, engage, and procure one Maloney to enlist as a sailor in sea service (or "to go and embark from that port with intent to be enlisted," &c.) for, under, and in aid of certain persons assuming to exercise the powers of government in a certain foreign country—that is to say, for, under, and in aid of the Confederate States of America. It will be observed that the matter occurred at Sheerness, and the offenses are said to have been committed there, and ordinarily the indictment would have been preferred and the trial had at the assizes for the county of Kent; but the foreign enlistment act expressly provides that the indictment may be preferred in the court of King's Bench, and, on account of the importance of the question which it involves, it was accordingly so preferred, and the bill or indictment was found or presented by a grand jury of Middlesex in last term—that is, in the month of June. The grand jury were charged by the senior puisne judge of this court, Mr. Justice Crompton, and we fully reported his charge at the time. The grand jury having found the bill of indictment, the defendant pleaded "not guilty," and the case was set down for trial. Of course it could only be set down in its order, and in that order it now came on for trial.

The solicitor general, Mr. Lush, Queen's counsel, Mr. Hannen, and Mr. W. V. Harcourt appeared on the part of the Crown; Mr. Bovill, Queen's counsel, Mr. Karslake, Queen's counsel, Mr. Sergeant Ballentine, Mr. Macnamara, and Mr. Gifford were for the defendant.

On the jury being sworn, Mr. Harcourt briefly opened the case, stating that it was an indictment under the foreign enlistment act, to which the defendant had pleaded "not guilty."

Mr. Bovill suggested that the witnesses be out of court.

The solicitor general at once assented, suggesting one or two exceptions, to which the learned counsel at once assented. The solicitor general then proceeded to state the case to the jury. This, he said, is a prosecution under the foreign enlistment act—a statute passed, as the preamble states, for the better preservation of the peace of the country, and therefore a statute of great importance to the welfare of the kingdom.

Gentlemen, when I tell you that the defendant was an officer in her Majesty's service as inspector of floating machinery at Sheerness you will readily believe, I am sure, that this prosecution has been instituted by the government with much pain and regret. But when you hear the nature of the case, and when you hear the evidence, you will see that the government had no choice, but that it was their imperative duty to submit this case to the consideration of a jury. Gentlemen, I will first call your attention to the provisions of the statute, and then I will endeavor to make a short but succinct statement of the facts of the case. The learned solicitor general then cited the statute at length, beginning with its title and preamble, and then the various provisions as above set forth. These he commented upon as he read them. He observed that the legislature had undoubtedly used a great number of words, and it might be a question whether the multiplicity of words tended rather to elucidate or to obscure the meaning. But, at all events, it is abundantly obvious that it was intended to prohibit the mischief against which the act was directed, as appears by its title and preamble—that is, any of the Queen's subjects being engaged in military service or warlike operations under any foreign state or power. Now, gentlemen, I will state—not argue—the view which the Crown take upon the construction of the statute. Their view is shortly this: that any equipment of a vessel with the prohibited intent is the offense created by the statute; that is, in other words, that it is not necessary that the equipment should be itself of a warlike character, but that if any person equips or aids in the equipment of a vessel by providing her with sails or rigging, or motive power, engines, or boilers; in fact, if he assists in any equipment whatever, he is guilty of an offense under the statute, provided always that it be proved that any equipment which he was a party to was made with the intent that the vessel should be enabled to cruise and commit hostilities against some country at amity with our Queen. That, gentlemen, is the view which the Crown takes of this statute. Now, gentlemen, upon the breaking out of the war a proclamation was issued by the Queen, in which it was declared that her subjects, upon pain of her displeasure, were not to infringe the provisions of the statute. Gentlemen, with that proclamation every subject of her Majesty must be presumed to have been acquainted, but certainly no officer of the Queen could pretend to be ignorant of it. And now, gentlemen, I will proceed to a short statement of the facts. In 1857 there was a screw gunboat built for the Crown, called the *Victor*. She carried six guns, was about 350 horse-power, and her tonnage was about 500 tons. She was employed for some time in the navy, but being found not very available for the government service, the admiralty accepted an offer from Messrs. Gordon, Coleman & Co., ship-owners in London, to sell her to them. The offer was accepted in November last year, and she was sold for £9,000. On the 6th November Messrs. Coleman were registered as the owners of the vessel, although it would appear by subsequent statements of Mr. Rumble that Messrs. Coleman were not the real owners, and that the real owner was a Mr. Zachary Pearson. The vessel was delivered to the purchasers on the 10th of November. Before she was delivered the warlike fittings were taken out, and she was sold without masts, or sails, or rigging. After slight repairs she was delivered to the purchasers, and taken out of the dock-yard and anchored in the Thames. That was on the 10th of November, and a new name, that of the *Scylla*, was then given to her. It was given out that she was destined for a voyage to China. Preparations for a voyage were proceeded with rapidly. The parts of her most defective were the boilers. A number of men were put to work upon them. They were supplied with fresh tubes, and rapid preparations were being made to send her to sea, the men being engaged ostensibly for the purpose of going to China. Now, gentlemen—and this part of the case can be placed beyond all doubt—she was purchased and equipped, not for the China trade, but to become a vessel of war in the confederate service. The equipment, however, proceeded up to the 24th of November, a date to which your particular attention will be called. On that day the parties interested in her appear to have received some intelligence which changed their plans, for in the evening of that day, instead of proceeding with the equipment, she was suddenly, in the night, taken out of the Thames to sea, and subsequently was taken to Calais. No sooner was the vessel out at sea than the mask was cast off, and all disguise thrown away. The name was changed to the *Rappahannock*; a confederate captain came on board of her at Calais, who said he had been mate of the *Alabama*, and took possession of her as captain; a fresh flag, the confederate flag, was hoisted; the officers appeared in uniform; there was no disguise; the character of the vessel was openly discussed; it was given out that she was a man-of-war; the crew were called on deck; they were "mustered," and required to sign what they called "articles of war"—that is, articles for service; they were offered £8 a month and £10 bounty, and prospects of prize money were held out, and the captain said, "I shall fight for my country and for glory, and you will fight for fame." Some pressure was put upon them at that time; they were in a foreign country, without means of returning home, and many of them were, unhappily, induced to enlist. The preparations for equipment, which had been interrupted, were proceeded with; a number of boiler-makers were sent for from England, and many of them were induced to leave their employment in the dock-yard without

leave, and when they returned they were discharged as having been absent without leave. Attempts were made to enlist more men; a large store of coals was taken in; but at this point the French government stepped in. The French government, not choosing their ports to be made the scene of hostile operations, interposed and prevented any further equipment of the vessel, and by the short and summary process of mooring a man-of-war across her bows, prevented her going out of port, and she has been kept a prisoner in the harbor ever since. Such, gentlemen, is a short outline of the history of this vessel—first, the government gunboat *Victor*, next the merchant ship the *Scylla*, bound for China, and then the confederate war steamer the *Rappahannock*. Now, probably, there never was heard of a more audacious attempt on the part of a belligerent to violate neutral sovereignty and neutral territory. I will now, gentlemen, inform you what part Mr. Rumble, the defendant, took in these matters, and I regret to inform you that, according to the evidence, he took an active part, if not the principal part, in the equipment of the vessel and procuring for her a crew. The evidence, if it bears out the instructions I have received, will, I think, leave no doubt whatever in your minds that he knew perfectly well from the beginning the true character and destination of the ship. He was frequently, indeed almost daily, on board the vessel superintending her equipment; and you will bear in mind that she had ceased to belong to the government, and they had nothing to do with her. She was ostensibly a merchant vessel belonging to a private firm, and Mr. Rumble, as inspector of floating machinery, had nothing to do with her. Still, he was there almost every day, giving directions upon the subject of her equipment. He procured boiler-makers and set them to work, and gave them directions what they should do to the boilers. He ordered new tubes to be put in; he gave directions with respect to the rigging and the other equipments. The vessel was manned with the aid of Captain Hall, of her Majesty's ship the *Cumberland*, a ship which had apparatus for masting vessels, and the use of which was applied for to assist in masting her; and I understand that Captain Hall, wishing to try the new apparatus for the purpose, consented to allow it to be used. But inasmuch as the government have no reason to suppose that he knew of the destination of the vessel at that time, they have not thought fit to lay any blame upon him, though they were not at the time aware that this had been done. Well, Mr. Rumble was constantly on board, superintending the equipment of the vessel, which proceeded up to a certain point, and then it was interrupted. But, further, he took an active part in manning the vessel. He was held out as the person to whom men seeking employment on the vessel should apply; they applied to him, and he received their applications; he himself engaged men in different capacities, and agreed with them as to the amount of wages they were to receive; when they went to sea he paid them their wages for some weeks, held out inducements to many of them to join the vessel, and said that he would, when they were at sea, take care that the portion of their wages they did not want should be transmitted to their wives. He paid the passage of several men from Woolwich to Sheerness when they went to join the vessel. And I am informed that on the afternoon of the 24th of November, when the vessel left the river, he was on board as late as 5 o'clock in the evening, when preparations for departure were going on. He was down in the cabin with the real owner, Mr. Pearson, and the persons then in command; several of the crew were brought into the cabin, and then Mr. Rumble endeavored to induce them to enlist for a long voyage. He failed as to some; some of them refused to sign the articles, but some were induced to do so "for a trial trip," as it was said—"a trial trip." Mr. Rumble was then present while the articles were being signed, endeavoring to induce the men to enlist. Now, gentlemen, as to the enlistment, one point of law for which the Crown contends is this—it arose at the late assizes in the case of the "*Queen vs. Jones*," which was tried before the lord chief justice, (and which we reported toward the end of last term,) viz: that if he was a party to the procuring of these men to serve on board a confederate vessel of war he is guilty of an offense, on whatever pretense the men were engaged; whether it was that they were to go to China or on a "trial trip," if the men were actually engaged and employed, and if he procured them to be employed in that service, he is guilty of an offense against this act; and it is not the less such an offense because a fraud was practiced on the men. Now, gentlemen, it will be proper that I should state the evidence which bears upon this question. There will be no doubt that he, from the beginning, knew the character and destination of the vessel; at all events that he knew it before he went to Calais. I will call before you several of the men, who will tell you what he said, and one or two of the men he endeavored to induce to sign by representations of this kind: "You will not only have pay, but perquisites beyond the pay;" and to one of the men he said, "If you cruise on board that ship and you live to return, you will not want to work any more during your life." I shall show you from one witness—I believe a highly respectable witness, whom Mr. Rumble endeavored to engage, but did not succeed in engaging—that on Mr. Rumble asking him to be second engineer, and the man saying that he had not sufficient clothes, Mr. Rumble said, "Clothes don't signify, for when you get on board uniforms will be provided—a gray uniform; there is plenty of cloth on board, and we will make

it up into uniforms for the crew." Now, if you believe that, there can be no question as to Mr. Rumble knowing the destination of the vessel. What was the mate of a vessel in the China trade to do with gray uniforms? Mr. Rumble appeared to know all that was going on in the vessel, and told the men that the captain would join when she was at Calais—a promise which was fulfilled, for there the late mate of the Alabama came on board as captain. But the case does not stop here. The vessel went away from the river on the 24th of November, and three or four days afterward, I think on the 28th, Mr. Rumble himself went to Calais, and went in the same boat with a number of boiler-makers, who were going from some dock-yards to assist in the completion of the equipment of the vessel. And I am informed that Mr. Rumble was on board the vessel when the scene I have described took place, and that he was on board, if not on deck, at the time the captain summoned the crew and engaged them for the service, and he was, I am informed, in the cabin when some of the men received the bounty for their enlistment. But the case does not stop even there. Mr. Rumble returned, and one or two particulars occurred to which I must call attention. At all events, when he returned he knew the character of the vessel. Indeed, he had known it before, according to his own account, for he referred to a statement in the newspapers as to the hoisting of the confederate flag at Calais. So he knew of that fact, and if, as I presume will be set up by my learned friends, his counsel, he was imposed upon and deceived, and did not know that the ship was more than a mere merchant ship before she left the river, what would be his feelings upon hearing that a gross fraud had been practiced upon him, and that he, a Queen's officer, had been practiced upon and deluded into assisting in fitting out a belligerent vessel? One would suppose that he would have shown indignation, and that at all events he would have insisted upon washing his hands of the whole affair. But I am informed that after, by his own showing, he knew that this was a vessel of war, on a man applying to him for employment on the vessel he said, "I will speak to the confederate agent about you, and procure you employment." And further, I am informed that upon his return to Dover from Calais, when he had been on board the vessel, meeting with one of the boiler-makers who had been employed on the vessel, but had returned, Mr. Rumble used every kind of persuasion to induce him to go back to her. Gentlemen, this is an outline of the facts which, as I am instructed, I shall be able to prove. I have purposely made it only an outline, for it will be better that you should hear the details from the witnesses themselves. Gentlemen, probably the witnesses called on the part of the Crown will, many of them, be the subject of severe cross-examination, and remarks may be made upon their testimony, perhaps deserving of your attention. You will observe that, from the nature of the case, these are the only witnesses the Crown could possibly call before you. As to two or three of them, I think it proper to say that they have written a letter to Mr. Rumble exonerating him from all share in the transaction. That will be a very proper topic for cross-examination, and if it is resorted to, there will be an explanation. It would not be proper for me to enter fully into the circumstances by which it may be explained; but I am informed that Mr. Rumble got them brought into a private room, and administered to them what he called an oath, that the statements made in the depositions were not true. You will see by-and-by whether or not this is the truth. Now then, gentlemen, that is the case against Mr. Rumble. I do not impute to him that he has been actuated by base or mercenary motives, that he is a paid agent of the confederate government, or has proposed to himself any pecuniary advantage or emolument for his part of the transaction. I am willing to suppose that he has been led away by sympathy with the confederate cause, which in some persons amounts to enthusiasm, into a temporary forgetfulness of his duties. Far be it from me to impute it to any man as a blame, still less as a crime, that he feels a sympathy with either of the belligerents. We must all have our sympathies. Thought in this country is free, and expression also is free; but no man is free to act in contravention of the law; and I am sure you will agree with me that every subject of the Queen is bound to obey the law and the Queen's proclamation; that obligation is much stronger upon those who bear the Queen's commission.

The LORD CHIEF JUSTICE. We have nothing to do with that. It may be matter for consideration for the court at another stage of the case, (if it should reach that stage,) but we have nothing to do with it now.

The SOLICITOR GENERAL. Quite so. Gentlemen, I am glad to see that my learned friend, Mr. Bovill, appears on behalf of this gentleman, and will, I am sure, exercise to the utmost his great abilities, in order to secure, by every fair and honorable means, the acquittal of his client. If he shall succeed in satisfying you that the statements of the witnesses are not true, or, if true, that they may be explained, consistently with the innocence of Mr. Rumble, I shall be satisfied, and I am sure you will agree with me. But if the facts shall be substantially established as I have stated them, then I am satisfied that as the Crown has done its duty in instituting this prosecution, you will faithfully and fearlessly perform yours by vindicating the law of the country.

Captain Wise, captain-superintendent of Sheerness dock-yard, was then called and examined by Mr. Lush, Q. C. He gave the particulars of the vessel, and stated that

when the ship was sold her warlike equipments were taken out of her, and she was sold and delivered without masts, stores, or engines, boilers, or machinery. An application by the purchasers for the stores was refused, and she was sold without fixtures. Messrs. Coleman, merchants, were the purchasers. The defendant, Mr. Rumble, had nothing to do with her connected with his duties.

Cross-examined by Mr. BOVILL: And you had nothing to do with her?

No; not after she was fitted up.

Nor Captain Hall?

No.

Nor Mr. Rees, the master-rigger?

No.

Now first, did you, the captain-superintendent, allow her to be docked after she was purchased?

Certainly not; it was before the purchase was completed.

The witness was pressed as to whether, after the purchase, Messrs. Coleman did not apply to the admiralty to have the ship docked. He said there was such an application, and it was referred to the dock authorities, and she was docked on the 8th of October.

Mr. BOVILL. That is exactly what I wanted to know. The ship, then, was, after the purchase, and, at the request of the purchaser, docked at the dock-yard?

WITNESS. Yes; under orders from the admiralty.

Mr. BOVILL. With your sanction as captain-superintendent?

The witness stated that it was before the purchase was completed. He was pressed as to this, and desired to refer to the papers. The witness then produced the purchaser's written requisition, dated 17th of September, 1863; "We beg you will give permission to place in the dry-dock the vessel we have purchased from the admiralty for the purpose of examining her, with a view to taking her away under steam, it being done at our expense."

The LORD CHIEF JUSTICE. That shows it was after the purchase.

The witness stated that upon this there was an order to dock the ship, though it could not be done at once. The witness then read the answer, dated 27th of September: "My lords approve of the Victor, purchased by Messrs. Coleman, being docked on the 10th of October, for the purpose of inspecting her bottom, at the purchaser's expense." The witness then went on to state that, on the 8th of October, "the government officials" took the ship out of the Medway and put her into the dry-dock at Sheerness, and examined her. It was all, he said, "done by the government." He did not know, he said, if any one was there on the part of the owners, but it was done at their expense. During the time she was there no repairs were done, except repairing an accident, &c.; but she was thoroughly examined. On the 13th of October she was taken out of dock into the basin, and on the 2d of November out into the river, and there her masts were put into her. Nothing was done until after the 12th of November, after she was given up. It was on the 10th of November she was given up, and after that the owners sent down the masts.

Mr. BOVILL. Were they not put into her by Captain Hall, captain of the steam reserve, and with the aid of a government ship, the Cumberland?

Yes.

Mr. BOVILL. Was her rigging put up by riggers belonging to the dock-yard.

I believe it was; but after working hours. I had no control over them after those hours.

Mr. BOVILL. Was she at the government moorings?

Yes; as she had no anchor, the owners asked that she might be made fast to a government buoy.

Mr. BOVILL. And she was taken out by a government tug?

Yes.

Mr. BOVILL. And remained at the government moorings until she was given up.

WITNESS. I believe, after she had her masts in her, she lay at her own anchors.

Mr. BOVILL. Well, I suppose it was well known to every one that she was lying there being fitted out?

It could be no secret, as she was lying there.

Mr. BOVILL. And it was understood she was going to China?

Yes; we so understood.

And you rendered every assistance?

Yes.

And made no objection to the men working on her after working hours?

No; it is not unusual when a ship has been sold to render every assistance to her.

Mr. BOVILL. And the inspector of machinery afloat might be disposed to do so, eh?

Yes; he might.

Mr. Rumble is an officer who has been twenty years in the service of the Crown?

Yes; he has.

And he would be entitled to a pension, or his widow?

Yes; according to the rules of the service.

Well, the vessel lay there known to every one—the officers and the public?

Yes. [The witness said she lay in the river from the 2d till the 24th of November.]

Mr. BOVILL. Now, just tell me this—you have not been able to keep federal spies out of the dock-yard, eh?

Well, there have been men mixed up with these matters.

And some have been dismissed, have they not?

None have been dismissed; one man asked for his discharge.

Well, there have been federal spies, I believe?

Spies on both sides.

The LORD CHIEF JUSTICE. What do you mean by federal spies?

WITNESS. Why, my lord, there were men who were gaining information about this vessel.

The LORD CHIEF JUSTICE. It is very remote from the present matter.

Mr. BOVILL elicited that one man named Warne had got his discharge on this account, and wanted to pursue the subject further; but the Lord Chief Justice said it was irrelevant, and he would not permit it.

The next witness was the man Firth, who was examined by Mr. Hannen. He said he had been a breaker-up of ships at the dock, and he stated that in the autumn of last year he had been engaged to work upon the ship by a Mr. Fergusson, who said he was chief engineer. I was to meet a Mr. Carr before going on board. No one was with Carr then. I, Cole, and Hurford were together. We were to meet Rumble in the dock-yard at Sheerness, Carr said while going down in the train. We went to the dock-yard at about 11 a. m. to the steam reserve office, and met Rumble about half-past 1. Rumble was coming through the dock-yard gate. Carr went and spoke to Rumble. We went toward the water side, and Rumble sung out and told Carr to go down to the dock-yard pier, and take a boat and go off to see the Scylla, and he would be off as soon as we. We went on board. Rumble was on board before us. On board Rumble spoke to Carr. I didn't hear what he said. We were then put to work. Carr was second engineer on board the Scylla. Carr ordered me to go down, and told me to look after the stores. I was engaged upon her till she sailed, and afterward. Rumble paid the first week's wages. He paid me on board the ship. He then told me he would allow us a guinea a week while we stopped there. Then I asked him where she was going. He told me he didn't know where she was going to, but if I went away in the ship, and lived to come home again, I shouldn't have to work any longer. Then he said he would like to go me halves. That's all that passed with me.

The LORD CHIEF JUSTICE. How long did you continue there?

WITNESS. Three weeks, and one or two days at Sheerness. Rumble came on board often—sometimes twice a day, and other days oftener. He was taken ill, but until he was taken ill he came on board every day. He told me if I wanted anything on board I was to let him know. I applied to him for several things; they were for the use of the ship—shovels, tools, rakes, &c., and a cask of oil. He put them down in his pocket-book, and they were sent on board next morning. This went on till the time of the vessel going away. I went away with the vessel between 9 and 10 on a Tuesday night. On that night I did not see Mr. Rumble on board. I saw him on board that afternoon before we went away, just as we were going to dinner. Mr. Ferguson called us into the cabin. Mr. Rumble was there. They called me into the cabin, and Rumble asked me if I was going to sign the ship's articles. I told him yes. Rumble offered me six pounds a month, and I asked him for eight pounds. Mr. Rumble said, "Here's one of the owners," pointing to Mr. Pearson, "and he can't afford to give more than six pounds." Mr. Pearson then told me he would give me eight pounds. Mr. Rumble asked me how I'd like to have the wages. I told him I wanted to handle my own money. He asked me if I couldn't trust him to send it home to my wife. I told him I had nothing but what I stood upright in. No more passed. I didn't sign the articles. Then he told me to go out of the cabin and send my mates in. I did. That night we went off. I was in the engine-room, on the platform. That was my place.

By the LORD CHIEF JUSTICE. Afterward we agreed with Mr. Ramsay for fourteen days. We went to Calais. I didn't know where I was going, nor when she was going to start. On Saturday they said she would go on Wednesday, and she went on Tuesday. We sighted Calais about 4 in the afternoon. Mr. Ramsay commanded the vessel to Calais. We dodged about off Calais all night. Went in next day. A flag was hoisted outside the harbor. It was white, with a union jack at the top corner, a red stripe down the middle, and thirteen stars. [Paper handed to witness.] This is like it, but it ought to have a red stripe down the middle. I was told that it was the confederate flag. I remained three or four days on board at Calais. I didn't like to go in her when I saw the flag. Another captain came, Captain Campbell, and we were called aft and told he was the captain. He was then in plain clothes. He asked us to go in her, and some of us said "Yes" and some said "No." He told us she was a confederate man-of-war, and he would like to have us all go in her. I wouldn't go. I did not see Rumble on board while at Calais, nor at Calais. The captain addressed us the

day after our arrival at Calais. The next day he came on board in uniform—a gray suit. Mr. Rumble paid our expenses on the first occasion from Woolwich to Sheerness.

Cross-examined by Mr. BOVILL. Mr. Ferguson engaged me, and he had engaged Carr as engineer. Ferguson was a friend of mine. I had been to sea with him before. I never conversed with Rumble about going on board the ship. I knew Carr before Hurford. Cole was with us. I knew Cole before. I then worked on board the Caledonian in Victoria docks. She was a government ship. No repairs were going on on the Scylla when we went there. Only the cook and Mr. Ramsay were on board, and Mr. Rumble. There was nothing being done at the time. Carr told us what to do. It was to work at the engine and boiler. Boiler-makers came on board and worked. The tubes were very bad. While we were at the buoy nothing was done but knocking about the boiler. I am now employed at breaking up ships at New-yard, Mr. Castle's.

Mr. BOVILL. Have you within three months received anything but your wages?

Only twelve shillings and sixpence a week. I believe it comes from Rochester—I think from Essell, Knight, and Arnold. They give me that to keep me from going to sea. I have been receiving it for five or six weeks past.

The SOLICITOR GENERAL. I may state that several have received this to prevent them from going away. We could not retain seafaring witnesses otherwise.

By Mr. BOVILL. Cole, Brooks, Ginno, and I received this. I have been at Castle's a fortnight. Before I received the money from Essell, Knight, and Arnold I received nothing. J. Brooks, Cole, and Hurford are at Castle's.

Mr. BOVILL. How do you all come to be at the same place?

WITNESS. Luck, I suppose. (A laugh.) O'Kelly and Warne came there sometimes. I first knew O'Kelly when we first came back from Calais.

Mr. BOVILL. He has been attentive to you since, and refreshes you with beer occasionally?

Yes. (A laugh.) We sometimes have had it together. When we feel dry we drop in anywhere.

Mr. BOVILL. And O'Kelly moistens your throats? (Laughter.)

Yes.

Mr. BOVILL. Did O'Kelly ever take you anywhere to make a statement?

WITNESS. No; I went to meet him. I went to London on my own business, and ran up against him. (Laughter.) When I met O'Kelly we went into a public house. He treated me to a pint of beer, and I and he drank it. I met him at the bottom of Fenchurch street.

Mr. BOVILL. When did you first make a statement to any one about this vessel?

About this time last year I went into a public house with O'Kelly and two other gentlemen, and that was the first time I ever made a statement about it. It was the Derby Arms. O'Kelly and these two came to Woolwich factory, and took out me and Brooks, and Ginno, and Bailey, and Hurford. I had only seen O'Kelly once before that, the morning after I came from Calais. Five of us had a drop with him.

By the LORD CHIEF JUSTICE. We had three pints of half-and-half, but didn't get tight. (A laugh.)

The LORD CHIEF JUSTICE. Brush your mind up a little. When did you see him?

The first day after I came back from Calais. Then I was to meet him up in London. I made no statement in London. He promised us all a ship. Never heard him say we should have "good berths" or "good pay." O'Kelly don't give money to stay. He never gave me anything, only beer—plenty of that. (Laughter.) I don't know who he is, where he lives, or anything about him. I was told to meet him in Mitre street, near London bridge. I last saw O'Kelly one day last week and this morning. Had no beer this morning. Would like to have a little drop. (Laughter.) I mean to swear that O'Kelly never gave me money—let me see; yes, he gave me 12s. 6d. the week before last, at Woolwich, at a public house, at the Tom and Jerry, and beer at the same time. Brooks and I were there. I never saw him give Brooks 12s. 6d.; 12s. 6d. is all he has ever given me. I stated before the magistrates at my examination what they asked. I believe I didn't then say anything about what I have now said regarding Rumble's saying that he would go me halves.

Mr. BOVILL. Did you ever make one statement about that until after the third meeting with O'Kelly?

WITNESS. I can't say that I didn't or that I did. Mr. Rumble first conversed with me about signing the ship's articles. Mr. Ferguson called me into the cabin. It was in the cabin that articles were first mentioned. Mr. Rumble spoke to me about them.

Mr. BOVILL. Did you not swear before the magistrates that Mr. Ferguson told you to go into the cabin to sign the ship's articles?

WITNESS. Yes; he first spoke to me about the articles. Then Rumble asked whether I was going to sign. I don't know whether or no I said anything about Rumble telling me to sign the ship's articles. Rumble never said anything about what we were to have after we left Sheerness. Ferguson engaged us. On Saturday morning Mr. Rumble paid me. He told me we were to have a guinea a week and provisions. I had

made no arrangement up to that time except with Ferguson. We didn't know what we were to have until Rumble paid us. I thought she was going to run the blockade or going to China in the opium trade. No one told me where she was going. I had no notion of enlisting in the confederate service. The talk among the men was that she was going to China in the opium trade. I was engaged to go on a trial trip as far as Brest.

THE LORD CHIEF JUSTICE. Who engaged you?

WITNESS. Mr. Ramsay, as storekeeper. When we got to sea we found the boilers and the tubes were very bad. The riggers at Sheerness were employed about the ship, painters, &c., of Sheerness, and other tradesmen. I should have declined to enter the confederate service. At Sheerness they offered us £10 bounty; no, it was over at Calais. When we were off Calais the flag was made on board. The boilers were not being repaired at Calais while I was on board. Captain Campbell came on board the same night or next morning. He called us aft and told us she was a confederate vessel. As far as I know, it was the first any of us had heard of it.

A JUROR. What wages would have been given for the ordinary trip to China?

WITNESS. About £4 10s. or £5. It would be the same for the opium trade.

Re-examined by the SOLICITOR GENERAL: Ferguson didn't agree with me as to terms. Then I came to Sheerness and went on board the vessel, and Mr. Rumble was there, and nothing was said about wages. The first occasion Mr. Rumble came on board and ordered all aft. We stood round Mr. Rumble. He pulled out the money, and said, "I intend to give you a week," and paid me. He paid me the next week £1 1s. He only paid me two weeks. The third week Mr. Ramsay paid us outside the Foundling inn at Sheerness. When we were called into the cabin Mr. Rumble first spoke to us about articles. Mr. Rumble left the ship soon after. I made no statement to O'Kelly the first time in London. I was examined by the magistrates at Sittingbourne, a fortnight after I met O'Kelly. I only answered the questions put to me. I'm sure I told O'Kelly about Mr. Rumble saying he would like to go halves. I stated it of my own accord. I got 12s. 6d. from Essell, Knight, and Arnold's, and 18s. wages from Castle's. I received it to prevent my going away. I was going to the Baltic. I was going away last March to run the blockade. (To the Lord Chief Justice.) I was prevented by Essell, Knight, and Arnold. I should have got £5 a month to run the blockade; and out there they got something in addition.

THE LORD CHIEF JUSTICE. How was it you could not go away in March?

They sent me word I was under a bond.

THE LORD CHIEF JUSTICE. How came O'Kelly to give you 12s. 6d.?

I suppose it was for my regular wages from Essell, Knight, and Arnold.

JAMES HURFORD, one of the men mentioned in the indictment, was the next witness. He was examined by Mr. Harcourt. He said: I am a ship-breaker. I was employed last autumn on board the Scylla. I was sent there by Mr. Ferguson. He sent me from Woolwich to Sheerness. I saw at Sheerness Mr. Rumble. No one told me to go to him. I went with the rest. I had nothing to say to him the first time. I went on board ship after I saw Mr. Rumble. Some time after I was working on board I saw Mr. Rumble. No agreement was made for wages for some time after I went on board. We went aft and asked Mr. Rumble some day or two after we came on board; all of us went. My expenses from Woolwich to Sheerness were paid by Mr. Rumble after we went on board. Rumble told us he was authorized from the company to pay us at the rate of £1 1s. a week, and our provisions would be added on board. I agreed to those terms. I remember the ship sailing at midnight. That day I saw Mr. Rumble on board, but not to have any conversation with him. I was on board when she went to Calais. I staid there seven or eight days. I was cleaning up. When Rumble paid me, he told us that the captain was not in England at present, but would be in England in the course of three or four days' time, and he would make agreement with us. I was to be leading stoker. Nothing was said to me about signing articles before I got to Calais. Captain Campbell was the captain at Calais. Captain Campbell asked me to sign the ship's articles. I did not consent. Captain Campbell told me what she was. I didn't know before I got there. I declined going on conditions, unless I had watch and watch on shore while she was in harbor every other night, as in an English man-of-war. Captain Campbell would not agree to it, so I didn't sign. Before going to Calais Captain Rumble said he would send our money.

Cross-examined by Mr. KARSLAKE, Q. C.: I was not told that I was to be leading stoker till I had gone on board. I and Carr, Cole, Firth, and Cozens were on board. He was pressed as to what was said about the captain, and whether it was not said by Mr. Rumble that when the captain or owner came he should have no more to do with it. A difference arose as to whether he had said that, or whether he had said that "then agreements would be entered into or completed."

Mr. Hannen said he was bound to state that he had taken this note of what the witness said, "that the captain was not in England and he would make agreements with us, as he had then nothing more to do with it himself."

The solicitor general stated that, as his learned friend had this note, it must be taken that the witness had so said.

Mr. Bovill and Mr. Karslake said they had not taken it.

The witness then repeated that what Mr. Rumble said was that "the captain would make agreements with them when he came, as he (Rumble) had nothing more to do with it himself."

The cross-examination of the witness by Mr. Karslake was then continued, and it was elicited that he said to the defendant that it was not usual that men engaged in merchant ships should pay their own expenses upon coming to their ship, and that then Mr. Rumble paid him and Firth their expenses to Woolwich. He repeated that he saw Rumble on board on the day the ship sailed; but the superintendent of police was also there. He was pressed as to whether they were not both on board searching the vessel to see if government stores were not on board, but he could not say. He was asked whether he had not said that the defendant had said he merely paid the men because the owner was away; but he said that what he had said was that the captain was away. Upon this his deposition was put into his hand, in which he had sworn that the defendant had said he paid the wages because the owners were in London, and had requested him to pay the men, and he said he did say so. Being asked again, however, he said that what the defendant said was that the owners had asked him to pay the men, but that it was the captain who was away. The deposition was again appealed to, but the Lord Chief Justice said the depositions before magistrates were often badly taken down.

Mr. KARS LAKE. Still it may be that he is wrong now.

The cross-examination of the witness by Mr. Karslake was then continued. He was pressed as to money received from Knight and Essell, the admiralty solicitors at Rochester, &c. He said he was still in the admiralty service. He was pressed as to how often he had seen O'Kelly. He said he had seen him perhaps thirty or forty times, but could not say. He had seen him at Calais. O'Kelly came to see him sometimes at Woolwich, where he was at work, and perhaps might "report." He had seen Firth with him. He was often at the factory gates.

Mr. KARS LAKE. What does he say?

WITNESS. He asks me how I am.

Mr. KARS LAKE. He asks after your health, eh? Is that what he reports about, eh?

WITNESS said he did not know, but he supposed O'Kelly came to see that he did not run away. (Laughter.)

Mr. KARS LAKE. Oh, he is a sort of spy over you, is he?

Witness said he did not know, but O'Kelly looked after him.

The witness was re-examined by the solicitor general, and stated that Ramsay was on board acting as captain, and told him he was to speak to Mr. Rumble, and afterwards Mr. Rumble told him the captain was away. After that Mr. Pearson came and acted as captain. He came on the day the ship went out from Sheerness to Calais. Both Pearson and Ramsay were on board, and he believed that Ramsay had most to do with the navigation. At Calais Captain Campbell came, and he supposed Pearson left. He did not see him afterwards. Before starting Ramsay had acted as captain.

The next witness examined was Coles, who was examined by the solicitor general. He applied, he said, to Ferguson, who told him to join the ship. He went down to Sheerness with Carr and two other men. Subsequently he went on board the ship and saw Ramsay there. He did not then see Mr. Rumble, but saw him in the factory, and saw him on board some few days afterward. He got his passage-money from Hurford, but saw Rumble give it him, being close by at the time. Captain Ramsay was on board at the time. Mr. Rumble was so frequently on board that he could not say when he saw him next. Mr. Rumble gave him a guinea in the course of a week, he being then on board, and saying they were a good lot of men and he did not want to lose "the run of them." The amount of wages had not been then settled, but then Mr. Rumble told them they were to receive a guinea a week and their food. Mr. Rumble also said he hoped they would be contented, and that they should have good food, but no grog. They were to have a guinea a week as long as they remained there, and they were paid the second and third week's wages by Mr. Rumble. Some of the men put the question to Mr. Rumble where the ship was going, and he did not give any satisfactory answer.

Mr. BOVILL. What did he say?

WITNESS. He said that when we came home he should be glad to go halves with us in what we should receive. Witness went on to say that he saw Mr. Rumble constantly on board and looking about, as if it was his business to see that everything was fitted up properly, and he gave directions and asked questions—for instance, as to the boiler tubes; and he said that if the men wished to send any of the money to their friends he would see to it. They wanted the men to sign articles; the day they left Sheerness they were sent for "aft," and went down the cabin. There they saw Mr. Ramsay, Mr. Rumble, Mr. Ferguson, and another gentleman. He did not know if it was Mr. Pearson. Mr. Rumble asked the men if they intended to join the ship. "I," said the witness

"declined to join. I declined to sign articles. Mr. Rumble asked if we would go in the ship on a trial trip, not to exceed fourteen days." Witness said he would go on a written condition, and Mr. Rumble said he agreed to it. Witness produced the "condition," which ran thus:

"The undersigned agree to act as firemen on board the s. s. (screw steamer) Scylla, on a trial trip, not to exceed fourteen days, at the rate of £8 a month, to be sent to London at owners' expense."

This was signed by Mr. Ramsay, and Mr. Rumble was present. Until they started, Mr. Ramsay acted as captain. When they got off Calais, they looked up and saw a flag flying. He knew what it was, as he had seen it at sea, but he was so agitated about the boilers (which were in a very bad state) that he did not know what was said about it. The new captain came at Calais and sent for the firemen, represented himself to them as their new captain, and told them that they "must consider themselves as confederate men-of-war's men." He wanted to know if they would sign articles, and witness said he would not. Mr. Rumble had offered them £6 a month if they would engage to serve with the ship; that was when speaking of the trial trip; that was what was offered if they would remain with the ship, but the men wanted £8.

ONE OF THE JURY. We wish to know whether at that time it was not asked where the ship was going.

The witness said it had previously been asked of Mr. Rumble, as he had already stated, and no direct answer was made. Nor did he afterward hear him say where the ship was going.

The JURY. What made you ask as much as £8 a month?

The witness said he had had it before, as third or fourth engineer.

The LORD CHIEF JUSTICE. It had no reference, then, to the particular voyage?

WITNESS. No, it had not.

The witness was then cross-examined by Mr. Bovill. He said that he came home from China about two months ago, and had only received three weeks' wages (12s. 6d. a week.) He did not know from whom.

Mr. BOVILL. Was it from O'Kelly?

Witness said he did not know. Being asked as to what had taken place down in the cabin, he said he and Firth, Hurford, and others, were there, and that Mr. Rumble said that he was authorized by the "company," that is, the firm of owners, to pay them a guinea a week. Until he saw the confederate flag at Calais he did not know anything at all about the ship being for the confederates, and when he had signed the paper he had no idea of anything but a "trial trip." The boilers he said were very bad, only fit for a trial trip. They might, however, be got into good condition in a few days. The witness went on to state that a government tug took the ship out of harbor the day she left Sheerness. He came up on board and saw the government tug towing her.

Captain Wise here exclaimed: The greatest falsehood ever told!

Mr. BOVILL. You must not speak so loud, Captain Wise. You were not there at the time.

Captain WISE. No; but it is not possible.

Mr. BOVILL. Then you ought not to say so, sitting there representing the Crown.

The SOLICITOR GENERAL. Captain Wise did not mean what he said to be heard.

The LORD CHIEF JUSTICE examined the witness closely as to this. He swore positively that he was certain that it was a government tug. He had been in the government service and knew a government tug when he saw it. There could, he said, be no mistake about it.

The solicitor general pressed him as to when it was.

The WITNESS. When we went out from Sheerness to Calais; the night we left.

[The witness spoke quite positively and firmly, and there could be no mistake as to what he meant. His statement seemed to create the utmost surprise among the counsel for the Crown.]

NEWMAN was the next witness; he was examined by Mr. Lush. He said he was referred to Mr. Rumble by a Mr. Greathead, and was referred by Mr. Rumble to the mate. He asked the ship's destination, but could get no satisfactory answer. At last witness said he told Mr. Rumble that he would go. He was to go on the Wednesday, the 25th of November, but she went on the Tuesday, the 24th, in the evening. He afterward went to Mr. Rumble about it, and he (Mr. Rumble) said: "I suppose you are aware she has arrived at Calais?" He said he was, as he had seen it in the newspapers, and that she had hoisted the confederate flag. [It was not clear from the witness's way of giving his evidence whether he had merely seen it or had said that he had seen it, but he stated that Mr. Rumble had not said it.] He said that he had been in the American service, and on the coast of America, and Mr. Rumble said he "thought he would be a very useful man," and "that he was going to London to see the confederate agent," and would drop witness a note, and he left him with that understanding. Mr. Rumble knew he was in the government service, and asked him if he could get his discharge.

Mr. LUSH. Did he or you say anything about the confederate flag?

WITNESS. No; but I had seen it in the papers that the vessel had hoisted that flag. Being afraid of getting himself into trouble, the witness said, he threw the whole affair up.

Cross-examined by Mr. BOVILL: The witness said that Mr. Greathead, who referred him to Mr. Rumble, was an officer of the dock, and Mr. Rumble referred him to the mate, who was Ramsay. He did not know when the ship was at Sheerness, that the ship was for the confederate service; but at the time he had the conversation with Mr. Rumble, after the ship was gone, it was known, and was a matter of general conversation, that she was a confederate ship. He went on to say that he wanted to make money, and he did not care whether it was in the federal or confederate service. (Laughter.)

Mr. BOVILL. Are you an American?

WITNESS. No; but I was a good many years in the American service.

The LORD CHIEF JUSTICE. In the service of the United States?

WITNESS. Yes.

Mr. BOVILL. Well, I suppose you had some inducement to go abroad — eh?

WITNESS. Yes; I had a wife and family. (Laughter.)

The witness explained that for the sake of his wife and family he would not mind going abroad to make money.

Mr. BOVILL. But no other inducement — Mr. O'Kelly, eh?

WITNESS. No; I don't know him. I wanted to make money.

Mr. BOVILL. Are you quite sure Mr. Rumble spoke to you about the confederate agent?

Witness said he was. He was pressed a good deal as to this, but adhered to it, and said that Mr. Greathead and Mr. Rumble's son were present at the time.

Mr. BOVILL. Do you know that Mr. Rumble's son is in the Mediterranean, in the Wizard gunboat?

Witness said he knew that he was in the naval service; he did not know where.

Mr. BOVILL. Where is Mr. Greathead?

Witness said he believed he was at Malta, as an engineer in the government service.

Mr. Bovill elicited that this witness had not been examined before the magistrates, so that he now heard this for the first time.

The lord chief justice observed that this was most important, and without asking any decision to be taken at the moment, when the case for the Crown is closed, perhaps it may be proper to give you an opportunity of having those witnesses present.

Mr. Bovill said he was much obliged to his lordship. This was the first time he had heard that they were present. It was true that the solicitor for the treasury, Mr. Greenwood, had two or three days ago very kindly sent him a copy of the new depositions, but they did not disclose that these persons were present.

Mr. Lush pointed out that they did disclose that young Mr. Rumble was present.

Mr. Bovill said he had not observed it; if he had he should have applied for a postponement of the trial.

The witness was then re-examined by Mr. Lush as to the tugs, with a view to show that there were only two tugs in the harbor, and that, so far as he knew, neither of them was employed to tow the vessel out on the night of her departure. One, he said, was under repair, and could not have gone; the other did not go, so far as he knew.

Mr. Bovill was allowed to cross-examine the witness on that point, and elicited that he was not quite positive that there were only two government tugs in the port at the time.

After which,

The LORD CHIEF JUSTICE said: Mr. Solicitor General, after the evidence given by this witness as to the conversation with Mr. Rumble, it would be but reasonable to afford to the defendant the opportunity of producing those persons who were present, because the evidence is calculated, if not answered, to produce a strong impression, and it would be but reasonable, as it has taken the other side more or less by surprise, that they should have an opportunity of producing the two persons who are vouched as having been present. That necessitates an adjournment of the case; and then it occurs to me that if it is to take place it would be better that it should take place at once, and not, as I at first thought, after the case for the Crown had been concluded; because, after an adjournment at that stage the evidence will not be so freshly and vividly on the minds of the jury as if it took place now. On the trial being resumed I shall read over the evidence which has now been taken, and perhaps, upon the whole, it will be better to adjourn at once.

The SOLICITOR GENERAL. I think so, too.

Mr. BOVILL. I concur in so thinking.

The LORD CHIEF JUSTICE. Looking at the nature of the case, I think it will be so. It is unfortunate that these two witnesses are away, but their evidence is so important that it would not be satisfactory to continue the case without it.

The JURY. When is the trial to be adjourned to?

The LORD CHIEF JUSTICE. Till the sittings after next term, in February. You will take care to keep your minds in the mean time free from all impressions upon the case.

Mr. Bovill observed that he hoped the admiralty would render their assistance to procure and produce the two witnesses referred to, and who were both in the government service.

The solicitor general said he had no doubt the admiralty would do so.

The trial was then accordingly adjourned until February.

[From the London Times of February 2, 1865.*]

COURT OF QUEEN'S BENCH, *Westminster, February 1.*

Sitting in banco before Mr. Justice Blackburn and Mr. Justice Mellor.

THE CASE OF THE RAPPAHANNOCK.

The Queen vs. Rumble.

The trial of this case, commenced in December, and adjourned on account of the absence of a witness, was resumed and continued, the same counsel appearing as before.

Only eleven jurors, however, appeared, and

The lord chief justice, upon taking his seat, asked counsel if they had any objections to try with the eleven.

The solicitor general said that, on the part of the Crown, he had no objection.

Mr. Bovill said he was not quite sure whether consent in a criminal case would avail.

The LORD CHIEF JUSTICE. That may, perhaps, be doubtful.

It now turned out that there being two gentlemen of the same, or almost the same, name, one of whom had been upon the jury, the other had, by a mistake, been summoned for this occasion.

The LORD CHIEF JUSTICE. So we have got the wrong man upon the jury. (A laugh.) I am afraid we cannot go on under these circumstances, as there is a great doubt about consent in a criminal case. All we can do is to fix another day upon which the right juror may be summoned. And the question is, what day shall be appointed? But I cannot displace all the other business of the sittings.

One of the jurors here said: My Lord, I have to leave town on Monday on important business, and cannot possibly be present. I had rather pay the fine.

The LORD CHIEF JUSTICE. Ah, you should not have said that, sir; it may oblige me to increase the fine. (A laugh.) However, we will try to arrange it if we can.

The SOLICITOR GENERAL. It really is a very unfortunate state of things. I need hardly repeat that on the part of the Crown I should be quite willing to try the case out with eleven jurors, though I am fully sensible that we cannot expect my learned friend to consent.

Mr. BOVILL. No; it is a very important case, and we are anxious to have the advantage of a full jury. Moreover, I doubt if we could consent in a criminal case. It might be ground of error that the verdict was given by eleven jurors.

The LORD CHIEF JUSTICE. Then we will do this: the jury shall retire while I send a special messenger for the absent juror, and then the case can go on when he comes.

The parties and the jurors appeared very well satisfied with this arrangement, and expressed their grateful assent to it.

The jury accordingly retired, and another case was taken, the case mentioned below.

After the lapse of more than an hour the messenger returned and announced that the juror could not be found.

The lord chief justice announced that to the jury, and proposed to postpone the case until to-morrow, (this day.)

To this the jury and the parties assented, and the jury were accordingly discharged for the day, and desired to attend to-morrow, (this day,) when the case will be proceeded with.

* Transmitted with dispatch from Mr. Adams to Mr. Seward, No. 869, February 3, 1865, vol. II, p. 474.

[From the London Times of February 3, 1865. *]

COURT OF QUEEN'S BENCH, *Westminster, February 2.*

Sittings at nisi prius before the lord chief justice and a special jury.

THE CASE OF THE RAPPAHANNOCK.

The Queen vs. Rumble.

The trial recommenced yesterday, when it was again adjourned on account of the absence of a juror.

The jury having now all assembled, the lord chief justice proceeded to read over his notes of the evidence taken on the last occasion, which, as we gave it rather fully yesterday, we need not now repeat. His lordship's note of the evidence on account of which the case was adjourned was as follows. It was in the evidence of the witness Newman: "Mr. Greathead was present, and said to the defendant, 'This is the young man I spoke to you about.' The defendant asked me in what capacity. Witness said, 'As leading fireman,' and that he had been in the United States' service. The defendant said he thought I should be a useful man. He said he was going to London to see the confederate agent, and he would drop me a note. His son was present, and he said something as to dropping the defendant a note. Both Mr. Greathead and the defendant's son were present."

It was on account of the absence of Mr. Greathead and young Mr. Rumble that the case had been adjourned, and Mr. Bovill stated that his client had obtained the attendance of both these gentlemen, and they were ready to be examined.

The solicitor general then proceeded with the case for the Crown.

The next witness called was one Bailey, a boiler-maker, who had been engaged for the Rappahannock at Sheerness, and stated that he and one Gifford and seven others went with one Bagshawe (who, it turned out, was a leading boiler-maker in Sheerness dock-yard) to Rumble's house, and that Bagshawe went in and came out with some bank notes, which he gave to Gifford, who distributed them among the men to pay their expenses, and they went to Calais. He said he saw Mr. Rumble on board the boat on the passage to Calais. They arrived at Calais at night, and then went on board the Victor, or Rappahannock, as she was then called, and he worked on the tubes of the boilers, the chief engineer (Ferguson) setting him to work and directing him. He only went, he said, to repair the boilers, and then to go back. He remained on board three days, and then returned, and he did not see Mr. Rumble on board. He left, he said, because "he did not like the ship's provisions." He then saw Mr. Rumble at Dover, who asked him why he came back, and witness told him; upon which Mr. Rumble said he thought he was foolish for coming back, and asked him if he would return to the ship, to which witness answered that he would not, as the "job did not seem satisfactory;" and as he again mentioned the provisions, Mr. Rumble said that if he liked to go back he should have £10 for fresh provisions. Witness still refused, and went back to Sheerness, and did not return to Calais. The cross-examination of this witness was directed mainly to show that the party with whom he went were all boiler-makers, and the witness said that they were, in fact, a "gang of boiler-makers who went over for a job," Gifford being their "leading man." It appeared that the boilers were in a very bad state, and to complete the job would take about two months' time. And it was elicited that Bagshawe was, and is, leading boiler-maker in Sheerness dock-yard, and knew witness and the other boiler-makers, most of whom had worked in the yard; and it appeared that witness was now working in Woolwich dock-yard. It was elicited that some one had taken the witness to the American consul after his return from Calais, and being asked who took him there, he said he did not know him, but he was a "gray-whiskered man, whose name was Spencer," and who treated him to drink and gave him a sovereign. There was also a good deal of cross-examination about one O'Kelly, who, it appeared, had treated the witness and others of the men a good deal. In conclusion, it was elicited that Bagshawe was at the inquiry at Sittingbourne, but that he had not been seen here to-day.

The next witness was one Thomas Keppell, an assistant carpenter, who stated that in October last, from information he had received, he went to the house of Mr. Rumble, and said he understood that the defendant wanted men for the Scylla, (as she was then called,) and the defendant said she was bound for China, and witness could go as steward, and afterward the defendant sent him on board, telling him to go on board, and that defendant would meet him there, as he did, and introduced him to one Mr. Ramsay, who was then understood to be captain, as "his" steward. (It was not quite clear what this meant—whether Rumble's or Ramsay's.) The defendant, he said, came on board daily at Sheerness, often accompanied by Mr. Greathead, who was in the government service. Mr. Rumble was merely acting, he said, "as a kind of shipping master." The ship, he said, went away in a hurry.

*Transmitted with dispatch from Mr. Adams to Mr. Seward, No. 869, February 3, 1869, vol. II, p. 474.

Mr. Bovill objected. She was to go on Wednesday, and she went on Tuesday night. The witness went on to state that she went away late—half past eleven at night, and there was great confusion on board.

The LORD CHIEF JUSTICE. How long before did you know she was going?

WITNESS. Not until we were all "piped on deck." He went on to say that the police had been on board that day, and that Mr. Rumble also had been there; and he had given orders and acted as master, but not that witness heard that day.

The LORD CHIEF JUSTICE. What did the police come on board for?

WITNESS. To see if there were any government stores on board. He went on to say that Mr. Rumble used to give orders as to the management of the vessel, and was there the very evening she started, and only about an hour or so before she started. She was towed out, he said, by a government steamer and a private steamer. The government tug was one used at the dock-yard. The vessel went out of Sheerness harbor about midnight, and stayed at Dover, and next day went to Calais, and when in sight of Calais hoisted the confederate flag; and the old name Victor was painted out on its way, and the new name, the Rappahannock, was painted on. He did not see Mr. Rumble at Calais for several weeks, but then saw him on board the vessel, along with Mr. Ramsay, who was in a gray uniform, and was in command of the vessel until Captain Campbell came, who then assumed the command, and it was said that the vessel was to be a "Confederate States steamer"—"a war steamer," and witness then signed articles.

In cross-examination the witness said he had wished to go to China, and thought he was going there.

The LORD CHIEF JUSTICE. That is when you were first engaged? You did not think that when you signed articles?

WITNESS. No. He went on to say that the confederate flag was made in the course of the voyage to Calais, and it was made by one of the men who had been a government rigger. He further repeated that a government tug helped to tow the vessel out, and that the master rigger and other of the government officials had been busy in getting the vessel off, and that nothing was said about her being a confederate war steamer until she "sighted" Calais. And until he signed articles he had no idea of enlisting in the confederate service.

The LORD CHIEF JUSTICE. What? not when you saw the confederate flag flying, and were told she was to be a confederate steamer?

WITNESS. It was a matter of compulsion then. But before then I had no idea of going into the confederate service. When he went on board he said Mr. Rumble saw Mr. Ramsay, and introduced witness to him, saying, "Here is your steward." It was then elicited that the witness had been at the American consul's and had seen Kelly there.

Mr. BOVILL. How came you to go to the American consul's?

WITNESS. To make a statement.

Mr. BOVILL. How came you to go there to make a statement?

WITNESS. I understood from some of the witnesses that it was the place to go to.

Mr. BOVILL. Did you hear that some of them had a sovereign?

WITNESS. No. That I will swear. It was further elicited that he asked for a ship, and that this was one of his objects in going there; the other object was to make a statement. He was pressed as to which he did first—ask for a ship or make a statement, and whether he was not on the lookout for a ship. Several other men, he said, had told him to go the American consul's. He was pressed to name them, and mentioned Firth (one of the witnesses) and Friend. It was elicited that witness had "treated" Kelly and been "treated" by him.

Mr. BOVILL. Now, a word as to the time of the ship starting. Pray, is there anything unusual in a ship starting at night?

WITNESS. No; but there was in that though.

Mr. BOVILL. What time did she leave?

WITNESS. About midnight.

Mr. BOVILL. Now, do you mean to say that Mr. Rumble was on board within an hour of that time?

WITNESS. Yes, he was.

He was then pressed as to whether he had not on the preliminary inquiry stated that Mr. Rumble left at five in the afternoon, and he admitted that he had, and that he had not said he ever returned. His statement, he said, was made at the American consul's when one Warner was there. He had been there several times, and always saw Warner there, a man who had had his discharge from the dock-yard. Being pressed as to whether Mr. Rumble had returned on the night of departure after 5 o'clock, he said he had; and being asked if he had ever stated that before, he admitted that he had not. It was elicited that there was to be a lecture delivered that evening by Mr. Rumble, at Sheerness—a lecture on the habits and customs of the Chinese. (A laugh.) It was again elicited that there was a government tug engaged when the vessel left

Sheerness, although she was not attached to the vessel, and merely showed her the way, and this, he said, "attracted his attention."

It was elicited in the re-examination by the solicitor general that the government steamer was "two or three knots ahead of the vessel," that is, he added, nine or ten yards. (A laugh.) The other tug towed the vessel out; the government steamer "showed the way."

THE SOLICITOR GENERAL. Why did you not, when you were at the American consul's, say that Mr. Rumble came back that night?

WITNESS. Because I did not think of it. I did not think of it until this morning. He went below, where I was, and I saw him below. He returned again about ten o'clock.

The next witness was a man named Shaw, who stated he had gone to Mr. Rumble and said, "I hear you are engaging stokers for the Victor," (as the vessel was then called,) and he answered, "Yes, she wants five or six stokers," and he put questions to the witness as to his having been to sea, &c., observing that the ship belonged to a friend of his, and that he could not take upon himself to engage men then, but he did not think there would be any difficulty about it, and that he and the others had better go on board and see the chief engineer, Mr. Ferguson. He afterwards went on board with others, and saw Ramsay and Pearson, Ferguson, and afterwards saw Rumble, who asked what Ferguson had said, and added that he "expected the owner there," and afterwards he introduced the witness and another to Pearson, the owner. Pearson said "they would be under canvas two-thirds of the way to China." In the result, the witness and several others agreed to join, and Rumble came and said he would see to the remittance of wages to the men's wives, adding, "There are other privileges and ways of making money besides good pay," and Pearson stated that they were going on a trial trip; that there would be clothes served out to the men before long. It appeared that the men had pressed for higher wages than were offered, and got £6 or £7, or £7 10s., a month, instead of £5; and Pearson told one of them not to say what he had or they would have half the people in Sheerness on board. There was ultimately, however, an altercation between the men and Ramsay, and they declined to sign the articles, "seeing how things were going on," and they then left. They afterward went to Mr. Rumble, who said, "Now I know what you men want, you would greatly oblige me by going away." They said, "We don't know whether we have done right or wrong, but thought we had better see you for a little advice;" and he said, "I cannot instruct you privately, but you'll have instructions both to your own satisfaction and more too, and you'd greatly oblige me by going away." In January (after the inquiry) they wrote a note to him, in which, it appeared, they said that he did not engage them as firemen for the Rappahannock, and that the captain was the only man they made any agreement with; and they afterward saw him, and he asked them if such were their statements, which they would swear to, and they replied that they were, and that "they would swear it in the presence of two witnesses," named Parkes and Royston, (who were present,) and they, in the result, went away.

In cross-examination the witness said he had heard that men sometimes made money on voyages to China otherwise than by wages. And he was told that the vessel was going on a trial trip, and he was only to be engaged for fourteen days, which would not suit him, and therefore he declined to go.

The next witness was a man named Thompson, who, on the 27th of November, saw Mr. Rumble and Sheerness, the ship having then gone away, and that, after having been engaged for the ship—then at Calais—he was told by Mr. Rumble, "You won't want clothes; the uniform is gray; there is plenty of cloth on board ship, and it can be made up there when you get over there"—that is, at Calais. In the result the witness was not engaged, and in January last year, (which was after the inquiry,) Mr. Rumble, the witness said, asked him to write a note testifying that he (Rumble) had not engaged him, and he afterwards got them to acknowledge the note before the two persons mentioned by the last witness, Parkes and Royston. The note which the witness had signed was produced, and ran thus, addressed to Mr. Rumble: "We have not been engaged by you, or any one connected with her Majesty's government, to serve on board the Rappahannock." Mr. Rumble said, "Will you swear to that?" and he said he would.

MR. BOVILL. That is, that the contents were true?

WITNESS. No; I did not mean that, although I said so.

MR. BOVILL. Oh! then you sometimes say one thing and mean another?

WITNESS. Not often.

THE LORD CHIEF JUSTICE. In this particular instance?

WITNESS. I had a motive.

MR. BOVILL. Oh! you sometimes have a motive for making your statements, have you?

WITNESS. Nothing but the truth, I hope.

MR. BOVILL. Oh! I dare say. We shall see. Pray, were you offered five hundred dollars to make a certain statement?

WITNESS. No, never. Being pressed as to whether Warne had not offered him

money, he said "No." Being asked if he had not pressed Mr. Rumble for money, he said "No." It was then elicited that he had been twice at the American consul's, and met Warne there, the man who had been discharged from the dock-yard. He said he went to the consul's "to make a statement." Being further pressed, the witness went on to state that he had said that he "would tell no more lies about it, but would tell the truth."

Mr. BOVILL. What! you had been telling lies, then?

WITNESS. Yes, I had.

Mr. BOVILL. Did not Mr. Rumble accuse you of telling lies?

WITNESS. No; I told lies in his favor. (Laughter.)

The witness went on to state that he had gone up to the consul's with Hall and Shaw, and they saw Warne and had dinner with him, and his expenses. He had heard that men had money from Beardsall, who was a fitter in the dock-yard, and he himself had money from Beardsall, which, as he understood, came from Mr. Rumble. Being pressed further, he said the note he had written to Mr. Rumble was a lie; and he heard from Mr. Rumble that any man mixed up in the affair would be discharged from the dock-yard.

Mr. BOVILL. Well, you were asked if you could swear to that note, were you not, and you said you could?

WITNESS. Yes; but it was all a lie, a barefaced falsehood. (Laughter.) He said this was before the preliminary inquiry.

The wife of the last witness was called to confirm him as to Rumble's statement to him, in her presence, that "there would be plenty of cloth on board to make the gray uniforms."

It was elicited in cross-examination that this witness had not been examined since "a little before Christmas," the present trial having begun on the 5th of December.

The next witness was one Hall, a "hammerman," who stated that on the 16th of November he saw Rumble at Sheerness, who told him that he was engaging men for the Scylla, as she was then called. He gave similar evidence to show as to the note he had signed, stating that Mr. Rumble had not engaged or attempted to engage. In cross-examination the witness stated he had signed it, and had been asked if it was true, but he now said "it was all lies." When asked if he had been at the American consul's the witness was silent, and it was not until after some time, during which he was again and again asked, that he answered that he had been there.

Mr. BOVILL. Do you know how long you have been in answering that question?

WITNESS. Three minutes.

Mr. BOVILL. Why did you hesitate so long in answering?

WITNESS, (after a pause.) I wanted to be certain; it is so long ago.

Mr. BOVILL. So long ago! You wanted to be certain. How came you to go there?

Witness said "Through Beardsall;" through what he said.

The LORD CHIEF JUSTICE. Through what he said, do you mean; not by his direction?

WITNESS. No; of my own accord.

Mr. BOVILL. Was your statement taken down?

Witness again hesitated some time, and then said it was. All their statements were taken down.

Mr. BOVILL. What made you hesitate?

WITNESS, (again hesitating.) Because I wanted to be certain that I understood you.

Being pressed as to how he came to go to the consul's, he admitted that he had seen Warne at Thompson's before he had gone. Being asked if Warne had offered him \$500 to make a statement, he denied it, or that he had heard it rumored that Warne would give money for a statement.

Mr. Harcourt, in re-examination, desired to have it understood that it was not at Beardsall's instigation the witness went to the consul's, and proposed to examine into that point, but

The lord chief justice said he thought this was sufficiently understood already, and it need not be entered into further.

A man named Newton was called to prove that at Calais, after Captain Campbell came on board, he was called down into the cabin and paid by Ramsay, the defendant Mr. Rumble being there at the time. Witness and others then went home.

It was elicited in cross-examination that Mrs. Rumble also was there.

In re-examination it was elicited that there were officers on board.

By the LORD CHIEF JUSTICE. Some of them were in uniform?

It was further elicited that then it was well known that the vessel was a confederate ship; and some of the men went away, and some remained.

The LORD CHIEF JUSTICE. How long was Mr. Rumble on board?

The witness could not say, not having seen him come or go.

The LORD CHIEF JUSTICE. You saw officers, you say, some of them in uniform. When did they come?

WITNESS. As soon as we got alongside at Calais.

The LORD CHIEF JUSTICE. Did you take them as officers?

WITNESS. Yes; they took charge of the ship, and acted as officers.

The LORD CHIEF JUSTICE. Was the confederate flag flying at the time Mr. Rumble was on board?

WITNESS. Yes, it was.

At this point the court adjourned.

[From the London Times of February 4, 1865.*]

COURT OF QUEEN'S BENCH, February 3, 1865.

Sittings at nisi prius before the lord chief justice and a special jury.

THE CASE OF THE RAPPAHANNOCK.

The Queen vs. Rumble.

This was the third day of the trial of this case. The first witness called to-day was the man Ginno, (one of those mentioned in the indictment,) who went to Calais, and said he saw Mr. Rumble there, and also on board. He was engaged, he said, as a stoker, and Rumble paid him first on board the ship, and paid others of the men. He joined the ship a fortnight before she started, and he and others were at work cleaning the boilers. Mr. Rumble, he said, came on board at different times, but the witness did not hear him give any orders. When the ship started she was not fit to go to sea, and he did not know she was going until the morning of the day she started. There were, he said, plenty of provisions on board, several sheep and calves, and plenty of bread; and at Calais the officers were in uniform.

Cross-examined by Mr. BOVILL: I did not know that she was a confederate vessel until we were crossing to Calais. I suppose there were plenty of provisions on board. I should think there were about one hundred tons of coal on board. She would consume twenty-five tons a day. That would be only enough for a trial trip. When she went to sea she was not fit, because the water would not keep in the boilers, as all the tubes wanted refitting. At Calais, after I left the ship, I knew O'Kelly under the name of Williams. When Mr. Rumble paid me the sovereign he may have said that the owner was away, and had asked him to pay us.

Richard Spenciliff, examined by Mr. Hannen, said that he was a stoker, and got a character from Mr. Rumble in order to get on board the Scylla. He saw Mr. Rumble on board three or four hours before the vessel started. He was looking after government stores. He also proved the facts sworn to by other witnesses, as to the captain coming on board and mustering the men and endeavoring to enlist them.

Cross-examined by Mr. KARSLAKE: The police were on board at the same time as Mr. Rumble, looking after government stores. That was the last time I saw Mr. Rumble.

The LORD CHIEF JUSTICE. Was the state of the boilers known before you left, or was it known only when you were on the passage?

WITNESS. We only found it out on the passage. I did not know that we were going to Calais when we left Sheerness.

JAMES MALONEY, examined by Mr. V. HARCOURT. [This was the first man mentioned in the indictment.] I saw Mr. Rumble at his house, and asked him if he was shipping men for the Scylla. He said I could go out as a fireman on board the ship. Then I went on board. I was at work a week before she went away. Mr. Rumble paid me the week's wages in his own house. A Mr. Howe paid the other men, but told me to go to Mr. Rumble. I saw Mr. Rumble on board three or four times. I went to Calais with the ship, but only staid two days with her there, and then went away for two days. While I was away I saw Mr. Rumble. Brooks was with me. I asked him if I could go to work on board her as a boiler-maker. Mr. Ramsay was with Mr. Rumble. Mr. Rumble asked Mr. Ramsay what sort of men we were. He said he had no fault to find. Mr. Rumble then said, "Then you can go down to work." I remained about fourteen days working at the boilers. The captain paid me for seven days' work only. I then came back to Sheerness. I afterward went to Mr. Rumble's house and asked him for my pay. He said he didn't know anything about me. Mr. Brown, the owner of the ship, should have paid me. He said he would meet me at the Fountain Hotel. He didn't come there, so I went to his house again. He said he had been poorly and couldn't come down. He then gave me a sovereign. His wife was there. I took the sovereign. My wages were £1 5s. 8d. The same evening I went to Mr. How's. He gave me £1 5s. 8d. I then went back to Mr. Rumble, and gave him back the sovereign he had given me.

In cross-examination the witness confessed that the sovereign was given to him by Mr. Rumble until he could get his wages, he being at the time out of work. He also

* Transmitted with dispatch from Mr. Adams to Mr. Seward, No. 872, February 9, 1865, vol. II, p. 475.

said that Mr. Rumble said he never engaged him at all, and he then threatened to summon him. He had had 10s. a week, since then, in order to keep at Sheerness. He always understood they were going a trial trip.

JAMES BROOKS was then called, and examined by the solicitor general: I went on board the Scylla as a leading fireman, when she was at Sheerness. Captain Ramsay paid me my wages; I can't say whether Mr. Rumble ever paid me. Maloney and I left because we didn't like the color of the flag. I remember meeting two gentlemen, one of whom was Mr. Ramsay; I don't know whether the other was Mr. Rumble.

In cross-examination, the witness said that he knew O'Kelly, and had had drink at his expense in pretty nearly every public house in Sheerness; he had also received 12s. 6d. a week since he came back.

By the LORD CHIEF JUSTICE: I am out of pocket, because I am a sea-faring man and can't get work on shore.

The next witness called was JAMES GOODE, another of the men mentioned in the indictment.

Examined by Mr. HANNEN: I went out to Calais, and worked for three weeks on the Rappahannock. I received the wages from Mr. Rumble when I came back.

The solicitor general then said that he did not want to examine O'Kelly; but as his name had been very frequently mentioned, he would call him, in order that Mr. Bovill might have an opportunity of cross-examining him.

Mr. O'KELLY, about whom there has been a great deal of cross-examination as to his treating witnesses, &c., was then called, and after a considerable interval, appeared.

Upon his appearance, however, the solicitor general said: I have no questions to ask you.

Mr. BOVILL. Nor have I. [A laugh.]

Neither side caring to examine this person, he retired from the box.

The SOLICITOR GENERAL then said: Then, that is the case for the Crown.

Mr. Bovill then addressed the jury for Mr. Rumble. He said that the case was brought there by the government; but really, the prosecutors were the federal government. If the prosecution were really by the government there would not have been that disgraceful exposé that there had been of a means of getting evidence which would not be tolerated an instant in a prosecution by the government. The prosecution was really instituted by the federal government, in order to get a case against the British government. What a case they would have, if in any way they could prove that a government officer had been engaged in fitting out a confederate cruiser! And what means they have taken to prove the case. The learned counsel then called attention to the proceedings of O'Kelly and Warne in getting the evidence of witnesses, who were first wellplied with drink. Would these witnesses give correct evidence? Would not this constant plying with drink and payment of 12s. 6d. a week tend to prejudice their minds? This prejudice appeared in the way they gave their evidence; they suppressed everything favorable to Mr. Rumble—in fact, distorted everything in favor of their own case. Innocent expressions were by this means made damnatory. Again, the government depended entirely on the federal agents, and these agents would not let a witness appear who could say anything in Mr. Rumble's favor. But what was the case? This vessel while lying at the government buoy was bought by Mr. Pearson, or Mr. Coleman, who probably from the first intended it for the confederate service. Of course, with such an object, his first care would be to conceal his design. If he had taken the vessel to a private dock-yard, the federal agents would immediately have received intelligence, but if they could get her fitted out in the government dock-yard no suspicions would be excited. He accordingly applies to the government to let her be docked at Sheerness; his request is granted, and the vessel is brought in by a government tug from the government moorings to the government dock-yard, and there she is attended to by the government officials; she is then taken out again by a government tug, and then she is masted and rigged, still by the government officers; in fact, every one at the dock-yard did all he could for the ship, and then this letter is sent to Mr. Rumble:

"DEAR SIR: Will you please undertake, for us, the management of the doing of the repairs of the steamer Victor, we undertaking to pay all the expenses of what is necessary to be done?"

That was written to him by the owners, and he naturally acceded to it. Is it to be supposed that, when every one is doing his best, from the lords of the admiralty to Mr. Wise, with his government tug, that Mr. Rumble should refuse to do anything in his power? Of course, he did assist. There is no pretense for saying that there was any armament, and Mr. Rumble, like the rest, knew nothing of the ship being for the confederate service; they supposed she was going for a trial trip. Then she starts, and here we have her taken out by a government tug, under the orders of Captain Wise, according to the evidence of two witnesses. Here we have the officials doing their best until the last moment, all of them supposing her present destination to be a trial trip, and ultimate destination China. Then Mr. Rumble is accused of engaging the men, and it turns out that he had nothing to do with the greater part of them; and with others,

here is the letter authorizing and requesting him to do what he could. It is said that Mr. Rumble came on board just before she left, and that the vessel had a quantity of coal and provisions. We all know that 150 tons of coal would not last more than three or four days, so she could not go on service.

The lord chief justice observed that this might be used against him, as it might be said there was not enough coal to go on a trial trip.

Mr. BOVILL. There can be no doubt that every one imagined she was going on a trial trip; no one had any idea of her going as a confederate cruiser. She had no armament. If she was going for a trial trip, or Mr. Rumble imagined that she was going for a trial trip, if he had engaged every sailor and every fireman on board, he would have done no wrong. It would have been perfectly lawful for him to do so. Does not the evidence satisfy you that Mr. Rumble had no knowledge but the knowledge of every soul on board that she was going on a trial trip, and nothing else? When they got off Calais, they hoist the confederate flag, which, by-the-bye, they are obliged to make on board; afterward the captain comes on board, and then, certainly, the *Victor* and *Scylla* became the *Rappahannock* of the confederate navy. As to any equipment in Calais, with that we have nothing to do; the statute only applies to the United Kingdom. You must not be led to think that, because Mr. Rumble may have had something to do with fitting out the ship before she went to Calais, he knew what she was going to be when she was over there; nor, on the other hand, would it be sufficient to show that he was ever concerned in a warlike equipment at Calais, for, under the statute, the offense must be committed in this country, and the offense required an intent to contravene the statute, and an intent in this country to do so. Therefore, neither act done here without the intent, nor acts abroad even with such intent, would suffice to sustain the indictment. Again, as to enlistment, the statute only applies to "soldiers, sailors, or marines," and there was no evidence here of any such enlistment, for the persons mentioned in the evidence were only stokers, &c., boiler-makers, and the like. That point of the indictment, therefore, failed.

The LORD CHIEF JUSTICE. That point arose in the case of *The Queen vs. Jones*, which was tried before me at Liverpool at the last assizes, and it was reserved; and, on account of the great importance of the question, I should take a similar course here, and reserve the point. But, for the purpose of to-day, I shall tell the jury that the term "sailor" includes all persons employed in the navigation of the ship.

Mr. Bovill went on to urge that there was no evidence that any one man was engaged or enlisted until the vessel got to Calais. Until then no one supposed that there was to be any engagement in the confederate service. It was impossible, therefore, that the defendant could have caused any one here to enlist in the confederate service.

The LORD CHIEF JUSTICE. I shall tell the jury that anything that took place at Calais can only be considered so far as it may throw light upon other matters which are stated to have occurred here.

Mr. Bovill then went on to urge that, even as to the acts of employment or engagement here, the men were engaged or employed not by the defendant, but by Ferguson or by Ramsay. As to the statement of the witness, Newman, that the defendant had said he was going to call on the confederate agent, happily this was stated to have been in the presence of two other persons, Mr. Greathead and young Mr. Rumble, both of whom would be called to contradict the statement. Unfortunately, as it was a criminal case, the defendant could not be called as a witness, but in this instance, owing to the adjournment of the trial by the Lord Chief Justice, (in his anxiety for truth and justice,) he had been able to obtain the attendance of these two persons, who could distinctly contradict the witness in this statement. As to the statement that one Bagshawe, after going into the house of Mr. Rumble, had given the men money at Sheerness, it was sought to be inferred that he had it from Mr. Rumble. But why was not Bagshawe called to prove it? He was in the employment of the government, and they could have called him if they had pleased to do so. And why was not Gifford called, who was the forman of the gang of boiler-makers engaged on the steamer at Sheerness? As the defendant could not be called, the Crown should have called all witnesses who could state the truth of the matter. There was another point on which, fortunately, the defendant was in a position to adduce evidence to contradict the testimony of the only witness who stated that Mr. Rumble was on board the ship late on the night of its departure. It would be proved that at the time he was delivering a lecture on the habits of the Chinese; and that, therefore, the statement was an utter fabrication—the result (like so much more of the evidence) of American gold, corruption, and bribery. The learned counsel denounced with energy the prosecution as an American one; and the conduct of which—out of court—in some degree he suspected to have been confided to American agents. It might be asked what took Mr. Rumble to Calais? This question he would answer easily, and the answer he could sustain by proof. The fact was, that the vessel went away without paying the men, and he went over to secure their payment; whether he felt or expressed sympathy with the confederates was quite immaterial; nay, whether he actually aided them at Calais was equally immaterial,

or it would be no breach of the statute, as an act committed abroad. The learned counsel then went on to read the statement made by the defendant, which, he explained, he was only permitted to use by the assent of the solicitor general, whose conduct of the prosecution, so far as he was concerned, was creditable to himself and to the Crown. [The statements of the defendant were read as already given.] The learned counsel then went on to press upon the jury what credible satisfactory evidence there was to falsify these statements, and convict the defendant. Was evidence satisfactory and credible which came from such tainted sources, and had been obtained by such unworthy means? Not that he imputed these practices to any one connected with the government, but to the secret promoters of the prosecution—those American agents who were in the background, but had been at the bottom of the whole affair, and had really got it up, probably with a view to fasten on this country responsibility for the acts of confederate cruisers. There had evidently been treating of the witnesses, and all sorts of tricks and artifices, to get them to come up to the mark, and the jury, he submitted, could not rely safely on such testimony. He admitted that there might be circumstances of suspicion; but suspicion was not enough, and if there was any reasonable doubt, they were bound to acquit the defendant.

At the conclusion of the learned counsel's address the case was adjourned, and it is clear that it must last all to-morrow (Saturday.)

[From the London Times of February 6, 1865.*]

COURT OF QUEEN'S BENCH, February 4, 1865.

Sittings at nisi prius, before the lord chief justice and a special jury.

THE CASE OF THE RAPPAHANNOCK.

The Queen vs. Rumble.

This was the fourth and last day of the trial of this case.

Evidence for the defense was gone into.

MR. ZACHARY PEARSON was called, and examined by Mr. Bovill. He said: I was formerly a ship-owner at Hull, and connected with a firm of Gordon, Coleman & Co., of London. I remember the Victor, a gunboat, being for sale, and Gordon, Coleman & Co. purchased it. I was interested in that firm, and managed that business entirely.

THE LORD CHIEF JUSTICE. That particular transaction?

WITNESS. Yes. Mr. Coleman was connected with me by marriage. The ship had no masts in her when sold; she was merely a hull. I had the principal superintendence of the arrangements necessary to fit her for sea. We got permission from the government to have her examined. The vessel was sold by Coleman to a French firm.

THE SOLICITOR GENERAL. That would appear by the bill of sale.

MR. BOVILL. Was it an absolute sale?

WITNESS. Yes.

The solicitor general again objected that this could only be by bill of sale.

The witness said it was given to the vendee. He went on to state that he had the care of the arrangements necessary to fit her for sea. All the arrangements as to rigging and fitting, &c., were made by means of government men out of regular hours. The witness identified a letter by him to the defendant which ran thus:

"OCTOBER 7, 1863.

"Will you please undertake the management of the docking and repairs of the steamer Victor, we undertaking to pay all the expenses with reference to what is necessary to be done?"

He went on to state that he had known the defendant for some years, and was unable to go down himself about the business to Sheerness. I told Mr. Rumble (he said) that I had sold her to a French firm for a voyage to China. I wrote to him.

The solicitor general called for the letter.

It appeared that it could not be produced. Witness went on to state that he had subsequently told Mr. Rumble the effect of it, and told Mr. Rumble that it was necessary to have a trial trip. The owners, the purchasers of the vessel, ordered the vessel away.

THE LORD CHIEF JUSTICE. What are their names?

The witness paused, and then said, "Pitzcato & Co., (as near as we could catch,) of Paris." He went on to say that Ramsay was appointed by the French firm. The witness was on board and went down in her on the trial trip. It was necessary and usual to have a trial trip when a vessel had been long laid up. He was on board all that day.

* Transmitted with dispatch from Mr. Adams to Mr. Seward, (No. 872,) February 9, 1865, vol. II, p. 475.

He started with the vessel, and was on board several hours that day. She was to start on a Wednesday (25th) and she started on Tuesday night (24th of November) as soon as she could. Officers of police came on board, as there were rumors that there were some things belonging to the government. Two boats came, one containing police and the other Mr. Rumble and his officers, and they searched the ships very carefully. After the defendant left he was not on board again until the vessel got to Calais. (The witness here identified Mr. Greathead as having been with Mr. Rumble.) Before the ship sailed, he said, he did not know the state of the boilers, nor knew they were so bad. The ship was only fit to break up. The government sold her on that account.

The LORD CHIEF JUSTICE. Only fit to be broken up, you say; then she was scarcely fit to go to sea?

Well, not then.

You knew she had been condemned?

Why, yes.

But you bought her as a vessel capable of being made fit to go to sea, I suppose?

Oh, we bought her with a view of selling her and making a profit.

You bought her at "breaking up price?"

Yes.

Mr. BOVILL. What price did you give the government for her?

WITNESS. About £9,000. He went on to describe the state of the boilers, as shown on the trial trip. He proceeded to state that on arrival at Calais, about six o'clock in the evening, he wanted to get back to London, and went on shore.

The LORD CHIEF JUSTICE. Did she go into the harbor there?

No; it was not intended; she was going back into the river, but her boiler burst. There were no sailors on board, only artisans.

We have been told that articles were signed for a voyage to Brest. Is that true?

Articles were not signed, but a memorandum to show how long the trip was to last.

The witness here identified the memorandum, which ran thus:

"We, the undersigned, agree to act as firemen on board the steamship Scylla on a trial trip, not to exceed fourteen days, and to be sent to England at the owner's expense if landed out of England."

This, he said, was signed by Ramsay and the men, in order to limit the time for the trip, and the ship was only fit for a trial trip. There were no sailors on board, nor provisions for a voyage. The owner provided, he said; he had nothing to do with it. He landed in a boat from the Scylla at Calais, the vessel then being under way for her return to the river. Up to that time he had heard nothing of the flag. He went to shore, he said, in the pilot-boat and went to London. He was surprised, he said, to hear next day that the steamer was still at Calais. As far as I am aware the defendant was not aware that the ship was destined for the confederate service.

The LORD CHIEF JUSTICE. Were you? You need not answer the question unless you like.

I decline to answer.

The SOLICITOR GENERAL. Cross-examined. I don't quite understand how £9,000 should be given for a ship only fit to be broken up.

Her engines were good. It was proved afterward that she was only fit to break up.

Pray, are Messrs. Coleman or Gordon here?

No. I believe Mr. Coleman is not now in business.

Now, you say the vessel was bought to go to China. Did you believe that she was bought with that intention?

I can't say positively.

The LORD CHIEF JUSTICE. You are asked as to your belief.

(Hesitatingly.) I am not sure about it.

Do you know or do you not?

I had reason to believe that the intention of the purchasers was to go to China.

Do you pledge your oath that you did not believe it?

In the first instance I did.

At the time the vessel left Sheerness did you believe it?

Not on that condition.

Not on that condition—of course not. But you said she was purchased to go to China?

Yes; and that will appear.

O, yes; by the contract, I dare say, if you swear by the card; but as to your belief?

I cannot swear as to my belief at that time. I was glad to get a purchaser, and to sell at a profit.

Now, do you think that is an answer to the question we are asking?

Witness hesitated a great deal, and gave no distinct answer.

The SOLICITOR GENERAL. You don't know what you believed, then?

I had reason to believe she was to be a confederate vessel, but that the intention was to send her to China.

Oh, indeed! She was to be a confederate vessel and go to China?

The LORD CHIEF JUSTICE. Am I to take that thus: "I had reason to believe that she was intended for a confederate vessel, but that she was to go to China;" is that what you say?

Yes.

The SOLICITOR GENERAL. Can you explain why a confederate ship should go to China?

Oh, yes; I could explain.

Then do, please.

Confederate cruisers go all over the seas.

Oh, that's what you mean, is it? She was to be a confederate cruiser, was she?

I don't mean that.

What do you mean?

That I sold the vessel to these parties, and that their intention was to make a large profit.

The LORD CHIEF JUSTICE. You understood that they meant to sell her to the confederates for profit, but that you were to equip her for a voyage to China?

Yes.

The SOLICITOR GENERAL. Don't you know that it was intended that she should go to China as a confederate cruiser?

I don't know.

Did you not believe that she was intended as a confederate cruiser?

I did not know of my own knowledge.

Did you not believe it?

I had nothing to do with it.

Did you not believe she was to be a confederate steamer when she started?

(Quickly.) No; that she was not.

That she was to be so?

No; I did not know it.

Did you believe it?

No; I did not believe it, for she was in a breaking-up state.

Then she was hardly fit to go to China?

No; she could scarcely get to Calais.

You said you were to equip her to go to China?

Yes, under the original agreement.

Was it not announced on the "trial trip" that she was to be a confederate cruiser?

No.

Was not the name Scylla painted out in the course of the trip?

I did not know it was being done. I think the name was painted out while I was on board.

And the name Rappahannock painted in?

I did not see it until afterward.

Was it not painted when you were on board?

It may have been, but—

But what?

I am not certain.

Was there not the confederate flag flying?

No, I am sure there was not.

Was there no flag flying?

No; when there was nothing on board to make one.

The LORD CHIEF JUSTICE. It has been stated that there was.

There may have been some bunting got next day from shore, and it may have been made on board then.

The SOLICITOR GENERAL. You say there were no flags on board?

No.

You say the ship was sold to a French firm?

Yes; she changed hands two or three times.

When did you sell her to the French firm?

About a month previously to our leaving Calais. I cannot say the date.

The LORD CHIEF JUSTICE. What did you sell her for?

I think for £20,000.

The SOLICITOR GENERAL. You "think" for £20,000. When was the sale?

I cannot give the date.

The LORD CHIEF JUSTICE. I presume it would appear by the books of Coleman?

Witness said he had sold her by commission; he was not otherwise interested.

The SOLICITOR GENERAL. You are aware that by the bill of sale Coleman appear, on the 6th of November, as the registered owners?

Yes; I am well aware of it.

Did you see the money paid?

Yes; one-half of it was paid down.

Where?

In London.

Where in London ?

I believe at Coleman's office.

When ?

As to date I am at sea.

Oh ! as to date you are at sea ?

Yes, (hesitating ;) I think in September or October—early in October.

By whom was the money paid ?

By a person I never saw before.

Nor since ?

No ; I believe not.

The LORD CHIEF JUSTICE. When was the other half paid ?

The day the ship was at Calais.

How, in bank notes or cash ?

(Hesitatingly.) I think it was in cotton bonds.

You think. Why, you are a mercantile man, and this was a large transaction ; surely you must know well how the money was paid. Was it paid in money or by cotton bonds ?

By cotton bonds.

Bonds from whom to whom ? What bonds ?

Certificates given by the confederate government, representing each twenty bales of cotton.

Mr. BOVILL. I believe they are very common in London. There are thousands, perhaps millions, of them about.

ONE OF THE JURY. O, yes ; they are what is called " confederate stock."

The LORD CHIEF JUSTICE. Who paid the money ?

I don't know his name.

Where is Coleman ?

I don't know.

The SOLICITOR GENERAL. Have you been in communication with the confederate agents ?

Yes.

Have you not acted as a confederate agent ?

No ; I have sent them ships.

You have sent them ships ?

Yes ; and the federals robbed me of my ships, and the confederates robbed me of my money. (Much laughter.)

The LORD CHIEF JUSTICE. What do you mean ? How did the confederates rob you of your money ?

Why, I sold them things to the amount of £190,000, and took their agent's drafts on the confederate treasury and they refuse to pay them, so I have £190,000 of bad debts against them.

The SOLICITOR GENERAL. You have had many transactions with the confederates !

No.

No ? Why, there was one.

Except that.

Was that all one transaction, then ?

Yes.

You have been in frequent communication with persons connected with the confederate government ?

I have tried to do business with them, to my great misfortune.

You have been in communication with Mr. Rumble ?

Yes.

Since this affair ?

Yes.

You have kept up your intimacy with him, then ?

Yes ; so far as we were ever intimate.

Did you furnish him with funds for the purpose of paying men ?

Yes ; we gave him some money for the purpose of wages for equipment, &c.

The LORD CHIEF JUSTICE. What do you mean by that term ?

It includes sails, masts, yards, &c. The government stripped her, and made her a wreck before selling her. They took off her gun-plates.

The SOLICITOR GENERAL. Oh ! you rather wanted them to remain, did you ?

They would have been of value, if only for the metal.

Oh ! you wanted them to remain for the sake of the value of the metal, did you ?

Mr. BOVILL. He did not say that exactly.

WITNESS. No ; I did not say that was the reason ; I said the plates would have been of value even as metal. But the government took them off ; and, in fact, quite stripped her.

Re-examined by Mr. BOVILL : The witness said the ship had no masts or rigging, &c.,

and everything had to be put into her, at an expense of about £5,000. The ship was resold for about £20,000. The money for the purchase was paid in cotton bonds. They are circulated from hand to hand without indorsement.

The LORD CHIEF JUSTICE. You cannot tell, then, looking at them, whether they are taken in the ordinary course of business, or direct from the confederate government?

No.

Mr. BOVILL. The market price fluctuates according to the news?

Yes.

And some people make fortunes and others burn their fingers?

Yes; I believe so. (A laugh.)

Was Mr. Rumble to have anything for his services?

There was no agreement to give him anything; but, of course, we should have given him something for his services.

As you might any one else in the dock-yard?

Yes; they were all very obliging; they always are when a ship is sold.

Now, then, whatever you may have thought or suspected as to the ultimate destination of the vessel, have you any reason to believe that Mr. Rumble knew of it?

(The solicitor general objected. The witness ought only to be asked what he told Rumble.)

Mr. BOVILL. Then I will ask this: Whatever may have been on your own mind as to the ultimate destination of the vessel, did you ever communicate it to Mr. Rumble?

No, never.

The LORD CHIEF JUSTICE. Now, just answer me a few questions. How was it that on "a trial trip" the vessel went to Calais?

The person who was in charge of her (Ramsay) suggested it. It was a short trip, and it was a beautiful day.

Mr. Ramsay suggested it, you say?

Yes.

Without saying what it was for?

Yes.

When did he suggest it?

When we weighed anchor for the Nore.

Now, you say that as soon as you got to Calais, and the confederate flag was hoisted, you asked for the remainder of the purchase money, and got it?

Yes.

Without anything further?

No.

They made no objection, and paid you at once?

They were obliged to do so.

They were at Calais, you know?

Yes; but they could be compelled to pay.

Now, we have been told that while the ship was at Calais, in consequence of the state of the boilers, a number of boiler-makers, &c., were sent over to manage the repairs. Did you pay for that?

No.

Did you know of Mr. Rumble going over to see to the payment?

No.

You did not find the money, then, for it?

No.

Nor your firm?

No; we had nothing to do with it; we demanded immediate payment of the money and got it.

However, you did not pay anything toward the repairs of the boilers, &c.?

No.

You say you bought the vessel for £9,000, and sold her for £20,000, (subject to the expense of equipment, &c.) to a French firm; had you been in communication with them before you bought her?

Yes; I had done a large business with them.

But had you been in communication with them as to the purchase of the vessel?

No; as soon as I purchased her, I went over to France to find a purchaser.

Cross-examined by the SOLICITOR GENERAL: The witness said his memory had not been refreshed on the subject until recently, at Gibraltar, when his attention was directed to it by the report of the case in the newspapers.

(The trial had been adjourned from December on account of the absence of this witness and young Mr. Rumble, who were then both abroad.)

Did you go to the French firm?

Yes.

You bought her on speculation to sell her again in France?

Yes.

You went over to Paris about it?

Yes; the vessel had been open for sale to the public for two years.

You did not try to sell her in London?

No.

The witness went on to say that the government had stripped the ship and made her a wreck.

The LORD CHIEF JUSTICE. Not quite; they left enough for a considerable profit, it would seem.

JAMES HARE was then called, and examined by Mr. KARSLAKE: I carry on business as a painter at Sheerness. I knew Mr. Ramsay. I did not see Mr. Rumble before I went to Mr. Ramsay; I saw him afterward. They came together to my shop. I received an order to do work on board the Victor; she was then at Sheerness. I painted her. We were working at her until she left, and she was not finished then. My bill was £183; that was unpaid when she left Sheerness. When I heard the Scylla had arrived at Calais, I went to Mr. Rumble at his house. That was about 9 on Saturday evening. He was not at home, but I saw his daughter. I went again about half-past 10, and saw him. I showed him my bill, and told him I should look to him for the amount.

Cross-examined by Mr. LUSH: I had been working the day she left, and meant to go again the next day. I did not know she was going. There was a good deal of work to do when she started. My tools were on board.

(In re-examination, the witness said that he would leave his tools on board if he knew she were going on a trial trip.)

JAMES COOKE, examined by Sergeant BALLANTINE: I am a nephew of Miss Burlington, a furniture dealer. Ramsay and Kerr had a bill with us for £50 or £60. This was unpaid when the vessel sailed.

The LORD CHIEF JUSTICE. I own, Mr. Bovill, I don't see the point of this.

Mr. BOVILL. It is this, my lord: In reference to the letter I read yesterday of Mr. Rumble, stating that, as he considered himself morally responsible to several tradesmen in connection with the vessel, he must go over to Calais.

The LORD CHIEF JUSTICE. Oh, yes; I understand.

Miss RUMBLE was then called and examined by Mr. Sergeant BALLANTINE. I remember (she said) the 28th of November, 1863. It was a Saturday. I was at home; my father was not. He went up to town by the 9 o'clock train; he returned about 10. I was at home all the evening. I should have known if any one called that evening. Mr. and Mrs. Thompson did not call that evening. I remember the 24th of November. I went to a lecture at Miletown, Sheerness; before that I went to a tea-meeting with my father. My father lectured, and we went away about 10 in a cab. We got home about ten minutes past 10. We had supper together. I retired about half-past 10. I have a brother. He came in while we were at supper. I left him with my father. My father's house is about half an hour's walk from Sheerness pier. The Scylla was about ten minutes from the shore by boat. I remember my father going to Calais; he went alone.

In cross-examination by Mr. LUSH, she said: I went to London with my father. When he left me I went on to Yorkshire. My father fetched me about five weeks afterward. I did not hear how long my father had been in Calais. My father has lectured three or four times. The lecture began about 7. The last time the trial was on here was the first time I had this brought to my mind.

JOSEPH JAMES GREATHEAD was then called and examined by Mr. BOVILL: I am chief engineer in her Majesty's service. I have been in the service eighteen years. I have known Mr. Rumble seven years. In 1863 I was engineer on board the Mars. I was also assistant to Mr. Rumble. It is part of my duty to visit all vessels undergoing repairs. I remember the day the Scylla left Sheerness. I went with Mr. Rumble to inspect the ship. We had a boat's crew with us; there were no police. We left the ship about 1.30. Mr. Rumble left with me; he walked with me to my house, then went in the direction of his own house. I saw him again at about 5.30. He was then in uniform. This was at a lecture and tea-meeting. Mr. Rumble delivered the lecture. The lecture was over about 10. I saw Mr. Rumble get into a cab to go home. The distance between Mr. Rumble's house and the ship would be between two and three miles. With tide it would take fifteen to twenty minutes, against tide from one to three hours, to reach the ship.

Being then examined as to Newman having been engaged by Mr. Rumble, he said he did not know Newman at all, and denied *in toto* the conversation sworn to by Newman with Mr. Rumble after the vessel arrived at Calais.

The LORD CHIEF JUSTICE. You never heard any conversation about Mr. Rumble going to a confederate agent, or anything of the kind?

WITNESS. No; I never was present at any conversation with Mr. Rumble upon the subject of the ship at all.

In answer to the lord chief justice, the witness positively repeated this.

The next witness was Mr. Rumble, jr., who was examined by Mr. Karslake, Q. C., and stated that he remembered the Scylla when at Sheerness, and was engaged at the dock-yard himself. He said he remembered the vessel leaving the harbor at night. He con-

firmed his sister's evidence as to the lecture, and declared that he saw his father that evening after the lecture. He then contradicted the evidence of the witness Newman, and positively denied that he had ever been present at a conversation between his father and Newman, or that his father ever said in his presence (as Newman had said) that he was going to London to see the confederate agent.

He was cross-examined by the solicitor general, and it appeared that he had called at his father's house that night to ask his father to come and see him, and did not see him, but he came "in about a quarter of an hour." He was pressed as to whether he could positively say it was not longer, but he could not say.

The LORD CHIEF JUSTICE. I presume you did not know anything about the ship being for the confederate service?

No.

Then, if you had heard your father say that he was going to see the confederate agent, it would have struck you as remarkable?

Yes.

And you are quite sure you never heard him say so?

Quite sure.

Mr. BOVILL said this was the case for the defense, and he was sorry that he had no right, as this was a criminal case, to sum up his evidence or address the jury upon it.

The LORD CHIEF JUSTICE. I wish it were not so; and I hope to see that portion of our criminal procedure altered.

Mr. BOVILL. That, my lord, is a hint upon which I hope some amendment of the law in that respect may be proposed.

The LORD CHIEF JUSTICE. There ought, certainly, to be no difference between civil and criminal procedure in that respect.

Mr. BOVILL. Except this—that as criminal cases are of more importance, touching, as they do, the liberty of life of the accused, it is more important that the counsel for the accused should be placed on a fair footing of equality with the counsel for the prosecution.

The SOLICITOR GENERAL then rose to reply on the part of the Crown.

The LORD CHIEF JUSTICE desired him in the course of his address to point out upon what particular counts he demanded a verdict against the defendant; for instance, as to the equipment charges.

The SOLICITOR GENERAL said he would do so, and then commenced his reply on the part of the Crown. He commenced by complimenting Mr. Bovill for the zealous and able defense he had made for his client, and thanked him for the very handsome compliment he had paid to the conduct of the prosecution on the part of the Crown. At the same time, he said, his learned friend had made some observations which he had heard with great pain and regret. His learned friend had more than insinuated that this prosecution was dictated by the American government, and that the American government had caused it to be instituted with the object that they might obtain a verdict from a British jury against an officer of the Crown, and then upon that verdict found a claim for damages against this country; and he attributed this course to the malice and ill-will they bear against this country. Gentlemen, said the learned solicitor general, with warmth and emphasis, I regret—deeply regret—that my learned friend should have thought it consistent with his duty to make these observations. Gentlemen, it is no cause of surprise or complaint that those who represent the American government in this country, if they had reason to suppose that any subjects of the Queen had violated their neutrality and assisted their enemies, should bring these facts to the knowledge of the government. And it is proper that in their communications with the government they should not confine themselves to mere suspicion, conjecture, or accusation, (which could not be attended to,) but should submit some definite statement, consisting of evidence they had obtained of facts which could be substantiated. Gentlemen, it is the proper and usual course to pursue; and if our positions were reversed, and if we ourselves were belligerents and the United States were a neutral power, such a course would be proper for our agents to take in America; and it is a course which has been heretofore, and many times, adopted. And, gentlemen, I further say, that when evidence such as that is brought to the attention of the government from any source, whether the American consul or their own police, it is their bounden duty, not for the purpose of gratifying the malice of any foreign nation, but for the purpose of vindicating our own laws. In this country, as in all properly governed countries, it is the sole right and duty of the sovereign power to make war; and where a subject is engaged in warlike operations, in fitting out ships, or in enlisting men for the service of a belligerent, without the consent of the sovereign power, no nation with any self-respect can afford to pass over such an offense. It was, therefore, the duty of the government, upon such evidence being brought to them from any source, to institute the prosecution, and submit it to a jury, bound, of course, by their decision. Gentlemen, we administer and enforce our own laws for our own satisfaction, not for the satisfaction of any foreign government; and I should be unworthy of the office which I have the honor to hold if I could propound it as a topic worthy of a moment's con-

sideration in a criminal case, whether your verdict of guilty or not guilty will give satisfaction or offense to any foreign power. Gentlemen, my learned friend has suggested that a claim for damages could be founded on your verdict; but, surely, it is perfectly preposterous. I repeat, it is a perfectly preposterous proposition that a government is answerable for the conduct of any of its officers or subjects, if without its knowledge, sanction, or approbation. If, indeed, these acts were ratified by the government, then there might be ground of complaint. But when a prosecution has been instituted and submitted to the jury, and a verdict of guilty or not guilty returned, there can be no possible cause of complaint against this country. If the case is not proved against Mr. Rumble, of course you will acquit him; and, of course, you will not give a moment's consideration to the effect which may be produced abroad. But, if the case is proved, I confess I cannot follow the reasoning of my learned friend that it could be any ground of a claim against this country that you have thus pronounced a verdict of guilty. But, gentlemen, I pass from these topics, which I regret my learned friend should have introduced, to a consideration of the evidence in the case, to which, and which alone, I invite your attention. The learned solicitor general then proceeded to reply upon Mr. Bovill's remarks as to the character of the witnesses and the conduct of O'Kelly. He then proceeded as to the remarks upon the payment of 12s. 6d. a week to witness. It would have been impossible to keep those witnesses together for such a long time, adjourned as the trial has been time after time. It is a mistake to suppose that they got this in addition to their pay. But it is for you to weigh the evidence. They had no animosity against Mr. Rumble, and it is almost impossible to suppose that a number of British sailors have concocted such stories as these men have told. Now, let us see what the character of this transaction is. I don't think you can doubt that this vessel, when she was bought, was intended for a war vessel. That she left Sheerness in a hurry no one can doubt. She starts at midnight. Half way across, the mask is thrown off. Ramsay tells the men that he has given her a new name; hoists the confederate flag, and she becomes to all intents and purposes a confederate vessel. You cannot doubt what Ramsay's intention was. The learned counsel then called attention to the character of the evidence of Mr. Pearson, which he characterized as most unsatisfactory. He then proceeded: We now come to the question, did Mr. Rumble *bona fide* believe that this vessel was destined for the China trade? I agree with my learned friend that even if Mr. Rumble had equipped and manned the vessel himself, if without knowledge of her destination, he is not guilty. Now, gentlemen, continued the learned solicitor general, a word as to the law upon the subject. I quite agree with my learned friend that it must be proved that Mr. Rumble did the acts with an intent to contravene the statute, and that he must be proved to have had that intention in this country. But, gentlemen, let me direct your attention, and my lord's, to the recent statute, (24 Victoria,) which enacts that whoever shall aid and abet or counsel or procure the commission of any misdemeanor (whether at common law or by statute) shall be liable to be indicted as a principal offender.

The LORD CHIEF JUSTICE. But where do you say that the misdemeanor must be completed? There must be a hiring or enlistment within the United Kingdom, or a misdemeanor is not completed.

The SOLICITOR GENERAL. I quite agree.

The LORD CHIEF JUSTICE. You must, therefore, come to that—whether the actual enlistment was in the United Kingdom. The misdemeanor he "counseled" must have been committed.

The SOLICITOR GENERAL. I quite agree; but if a man is enlisted in this country to serve in the confederate navy—whether it is for a trial trip or a trip to China—not only those who hired, but those who aided and abetted, may be treated as principals in the offense.

The LORD CHIEF JUSTICE. If they knew of it, and enlisted with the intention; but no one of the men said that they had any notion of the fact.

The SOLICITOR GENERAL. My contention is that the intention in the mind of the enlister is the *actus reus*, and that if the accused enlisted men on board a ship which he knew to be intended to be used in the confederate service, or causes them to serve, that is an offense.

The LORD CHIEF JUSTICE. Every one of these men might have thrown up his engagement when he found that the vessel was not in British ownership.

The SOLICITOR GENERAL. No doubt; but the question is as to the intention of the party enlisting them.

The LORD CHIEF JUSTICE. But you must show an enlisting by the person who enlists to serve in the belligerent service.

The SOLICITOR GENERAL. If the indictment were against the parties enlisting; but this is against the party said to have enlisted them.

The LORD CHIEF JUSTICE. You can hardly put a different construction on the same words in the same enactment.

The foreman of the jury here said: My lord, is it competent for us to express an opinion which might save a great deal of time? We have formed an opinion as to

whether the defendant was aware of the real destination of the vessel, and our opinion is that he was not.

The SOLICITOR GENERAL. Gentlemen, that is the point on which I was about to address you.

The LORD CHIEF JUSTICE. Gentlemen, if you have firmly and finally decided upon that point, it is, of course, useless to go on; but that is the great point to which your attention is to be directed.

The SOLICITOR GENERAL. Gentlemen, I should be glad to be relieved from the painful duty imposed upon me, but it is my bounden duty to call your attention to the several circumstances which tend strongly to the conclusion that he did know of it, and I must pray you, therefore, to hear me. If a person, knowing that a vessel is destined for the service of a belligerent, engages men to serve on board, I submit that it is an offense, and equally so, although the men are engaged, as in the case of "The Queen *vs.* Jones," (tried before the lord chief justice at Liverpool,) to go to another place abroad and there to be enlisted in the belligerent service; that is clearly an offense within the act.

The LORD CHIEF JUSTICE. I cannot quite accede to the terms of that proposition that it is "clearly within the act."

The SOLICITOR GENERAL. I submit it; though, probably, your lordship may deem it a point which deserves consideration.

The LORD CHIEF JUSTICE. Yes; it ought to be reserved.

The SOLICITOR GENERAL then proceeded. Such, he said, was the view of the law he had desired to submit to the jury, and he understood it was to be so taken for the purpose of the trial. That is the law, and I will now proceed to facts, and will call your attention to what I think shows that Mr. Rumble knew the destination of the vessel. The supposition is that Mr. Rumble was imposed upon. Let us see if his conduct is consistent with this. I will say now that I rely on the hiring of Shaw and Hall. The learned counsel then called attention to passages in the evidence of these men.

The LORD CHIEF JUSTICE. There is no engagement of Shaw.

The SOLICITOR GENERAL. If your lordship takes that view I shall not press it. But I must call your attention to this: In an interview where Mr. Rumble was present, Shaw, thinking the pay was not enough, says they are getting as much as this in the merchant service. What can be the meaning of this if this vessel were supposed to be in the merchant service? The learned counsel then called attention to some other passages of a like nature. He then proceeded: I must submit to his lordship that there is evidence as to enlistment of Firth and Hurford, and, under the common law courts, as to the enlistment of Maloney.

The LORD CHIEF JUSTICE. There is no evidence as to Maloney. He went across to Calais. Then he left, and afterward was engaged as a boiler-maker, and only as a boiler-maker.

The SOLICITOR GENERAL said that he relied upon the common law courts for an offense in counselling, &c., Maloney and others to enlist.

The LORD CHIEF JUSTICE. What is the common law offense?

The SOLICITOR GENERAL. The gist of the common law offense is enlistment in a vessel for warlike purposes.

The LORD CHIEF JUSTICE. Then it is clear there was no enlistment of Maloney within the act. The intention of being enlisted for warlike purposes must exist at the time of enlistment.

The SOLICITOR GENERAL. I shall reserve the right of objecting to your lordship's ruling on that point. Now, as to Mr. Rumble's knowledge. He procures men, is constantly on board, and actually makes himself liable for tradesmen's bills. Who for? Pearson? Ramsay? Why should he do all this for mere acquaintances? Then she goes to Calais? Mr. Pearson says that after she went there he had nothing to do with her. The case for the other side is, that a gross fraud had been committed on Mr. Rumble. What is his conduct when he finds out that this fraud has been committed upon him—when he finds that the ship which should have gone to Calais has hoisted the confederate flag? Instead of being indignant, as one would imagine, he goes over to Calais with boiler-makers for the vessel; he is seen there in the cabin of the vessel, sitting with the officers. Is this the conduct of a man who has been imposed upon? It is said, on the part of Mr. Rumble, that he went to Calais to get payment of tradesmen at Sheerness; if so, why did he take the boiler-makers with him to the assistance of the vessel? Those are all the remarks I wish to make. Of course, if you are of opinion that Mr. Rumble did not do these things with a guilty knowledge, you will acquit him; but if you think he had a guilty knowledge, I have no doubt you will uphold the law of the country—a law of so much importance to all of us, as enabling her Majesty to observe and adhere to her neutrality and to preserve the peace of the country.

The lord chief justice then proceeded to sum up the case to the jury. Gentlemen, he said, you have already intimated an opinion as to a point which lies at the root of this inquiry, viz: that the defendant was not party to an engagement of men with a view to enlistment in the confederate service, for that is, undoubtedly, the very gist of the

indictment; and I am always reluctant, when a jury have expressed an opinion which tends to the acquittal of an accused person, to stand between him and the verdict which they are desirous of pronouncing. Nevertheless, gentlemen, I thought it much better that you should hear what the solicitor general had to urge, and also the few observations which I desire to address to you. If you still remain of the same mind, and the result of the whole inquiry is, that you think that whatever may have been the motive of other people, the defendant was a mere innocent agent in the matter—if you come clearly to that conclusion, it is, of course, unnecessary to consider the particular instances in which he may have been engaged, and the particular individuals with reference to whom the different counts are framed; and it may be as well, therefore, to address ourselves in the first instance to that question, viz: as to how far Mr. Rumble, in engaging these men to take service on board the vessel, (putting aside for the present the legal question whether their engagement, under the particular circumstances, with the intention upon his part that they should be so engaged, would amount to an offense, either within a statute or at common law,) how far he had at the time the intention to contravene the object of the act, and consider with what intention he did the acts complained of. Now, there cannot be the shadow of a doubt in anybody's mind that those who bought this vessel from the government sold her—whether directly to the agents of the confederate government, or to some parties who stood midway between these agents and themselves—with the intent that the vessel should pass into the service of the confederates. No one who heard Mr. Pearson's evidence—no one who saw and heard him while giving his evidence—can imagine any possible doubt upon that question. But when Mr. Pearson tells you (though the credibility of the statement is matter for you to consider) that what was held out as the ostensible object, even as between Coleman & Co. and the French firm, was that the ship should be engaged in the China trade—though, no doubt, that was for the purpose of masking the real intention and purpose of the parties—Mr. Rumble, to whom the same language was used, may have been imposed upon by this pretense, and may have engaged the men to serve on board the vessel in the honest belief that what was told him by them was true, and that the ship was intended to take a trip to China, and to be engaged in the opium trade, in which we know it often turns out that large profits are reaped by those who embark in it. And it is possible that Mr. Rumble may have been deceived by what every one must feel to have been a mere pretense for the purpose of masking the intention of the principals in the business. I put on one side here the statements of two or three witnesses who speak to conversations in which Mr. Rumble is alleged to have taken part, and which would bear a different construction, for they are open to a great deal of observation, and painful remarks were made by Mr. Bovill on the manner they had been tampered with. One of them says that when the terms of the engagement were being discussed, Mr. Rumble observed that if they went in the vessel they would come back great gainers, and that he should like to go shares with them. That may have been said innocently, and with reference to an adventure intended for China; but it may have an opposite construction, as referring to the vessel being destined for war, and the probability of prize-money being realized, in which the men on board would be entitled to share. Another conversation had reference to the subject of clothing, and he is represented to have said that there was plenty of gray cloth on board, and men who could make it up—that is, for the confederate uniform. If these conversations were to be credited, it would go very plainly to show the service in which the men were to be engaged. The witnesses, however, are open to much observation, and I certainly would recommend you, with reference to evidence which has been obtained or “nursed” by means of such practices as we have heard these witnesses confess to, I would advise you to receive all they say, more especially with regard to conversations, with extreme caution. But I would call attention to the fact to which it is important we should advert. It was not denied on the part of Mr. Rumble that after the vessel had shown her true colors, and her true character was no longer disguised, and when the confederate flag was hoisted and confederate officers were on board of her and in command of her, and when she was to all intents and purposes a confederate vessel; when this came to his knowledge he neither remonstrated with those who (as it is represented) had made him their dupe and their tool in the transaction, nor did he wash his hands of all further participation in the enterprise; but, on the contrary, he went on engaging men, and seeking them out for the purpose of engagement. Let any man consider what would have been his conduct if he had found himself placed in the position in which Mr. Rumble is represented to have been placed; a British subject, an officer in the royal navy, perfectly aware of the law, perfectly aware that in lending himself to an enterprise of this kind he was violating his duty as a subject and an officer in the service of the Crown, finding that he had been induced to take part in such an enterprise by representations that it was an adventure in the China trade, what would have been the course any one would have taken who found that he had been made an innocent instrument of such a design? Would not his first impulse have been to remonstrate with those who had placed him in such a false and painful position? But we hear of no such remonstrance; and not only so, but he engages a number of boiler-makers, and

not merely sends, but takes them over to Calais, and goes with them to Calais, and induces them to work on the ship. Gentlemen, I feel that I should not have discharged my duty if I had not asked you to consider these circumstances. Not, indeed, that what he may have done at Calais is the subject-matter of this indictment; but it throws light upon what was his understanding and intent in the earlier part of the transaction, and upon that which is the subject-matter of the inquiry, viz, the state of his mind and the intention with which he did the acts charged against him; and for this reason, that it is difficult to conceive that a man who had not the mind and intent alleged at the time the matters took place which are the subject of this prosecution, and who had found out that he had been made an instrument of in the matter, would have gone to do what was necessary to carry out the design. It is well, therefore, that you should direct your attention to these matters. And I should add, that if you are of opinion that this part of the case is true, then it may tend to confirm the credibility of the witnesses who speak to the specific facts which are the subject of the indictment. Now, gentlemen, the indictment is divided into two main heads or branches; one is as to the equipment of the vessel for the service of the Confederate States; the other is as to the enlistment of men for that service. As to the former, I did not understand the solicitor general to ask you to give a verdict on those counts which relate to the equipment. The vessel was bought as a hull, that is, with only her machinery and without masts, sails, or spars, and destitute of warlike stores of every kind. And nothing appears to have been done to furnish or equip her, or supply her with materials or munitions of war. Therefore, I do not see how the trifling things which the defendant is alleged to have done, not amounting to an "equipment," could be a ground for convicting him under these counts of the indictment. They, therefore, may be dismissed from your consideration. The point to which your attention is to be directed, and upon which you are asked to give your verdict for the Crown, is the counts as to the enlistment of men. Now, as I have already said, what takes place at Calais does not come within the statute, and the only part of the case which could do so is that which took place at Sheerness.

The lord chief justice here entered into an elaborate analysis of the evidence as to the enlistment. His lordship read some passages from the evidence of Firth and others, and observed: It plainly appears from this that the idea in every one's mind was, that the vessel was going on a trial trip and then to China. It also appears that all the engagements made by Mr. Rumble were temporary. His lordship then called attention to the evidence of Newman as to the interview with Mr. Rumble after the vessel had started, and said, if this evidence were uncontradicted, I should say that there could be no doubt as to the knowledge of Mr. Rumble. But there is an answer to this in the evidence of Mr. Greathead and young Mr. Rumble, who deny this interview altogether. As to the hurried nature of the departure of the vessel and the defendants having been on board, there is the evidence of the defendant's son and daughter, and, in fact, of Mr. Greathead also, who showed most conclusively (if they are to be credited) that the defendant was in different places until half past 11 o'clock, and could not well have been on board at that time. As to the evidence of Thompson, that is certainly very material (if it can be depended on) in showing that the defendant knew that these engagements were for the confederate service. But the daughter contradicts all this, saying that they could not have seen her father at the time they swear to, as he was not there at that time. There is, then, the evidence of Maloney and some others, (into which also his lordship elaborately entered,) and that, gentlemen, continued his lordship, makes the case of the prosecution, and it appears to come to this, that the engagement of the men was to serve on board the vessel on what was called a trial trip for a fortnight. It further appears that, up to the time the vessel left, none of them had the remotest idea that the ultimate destination of the vessel was that she should enter into the confederate service, and that they or any of them should enter into that service, but that the notion at the time was that after the trial trip was completed she would go to China and embark in the opium trade; that some of them desired a permanent engagement in that trade, and that some declined to go, but that none of them had any notion that the vessel was intended to be used in the confederate service. But then the great question presents itself, whether, supposing that the defendant knew what the ulterior purpose or object of the vessel was, and that, so far as he engaged the men, he did so with the view that they should, when the vessel had gone away from Sheerness, be induced to enlist in the confederate service, whether that comes within the act, or would constitute an offense at common law. We will not, however, stop to enter into that inquiry now; but if you should be of opinion that he did procure them to enter into engagements nominally for a trial trip, but with the ulterior purpose on his part of getting them into a position in which they might be induced to enlist in the confederate service, you had better find the defendant guilty, the point being reserved for the consideration of the court whether or not that would constitute an offense either at common law or within the statute. But you must first be satisfied in your own minds that he did procure the men to engage in the "trial trip" with the object that they should be afterward induced to

enlist in the confederate service. Now, that would depend a good deal on the question, What was the purpose with which the vessel left Sheerness? Did she go, in fact, upon a "trial trip," or was the intention to get her out of the river, and beyond the reach of English law, that then the enlistment in the confederate service might be carried on with impunity? Now, certainly the case as it was at first presented on the part of the prosecution was that the vessel had been suddenly taken out to sea at night, without any idea of a "trial trip," and taken over to Calais; but there was a good deal of evidence on the other side (much of it coming from the witnesses for the Crown) which well deserves your serious consideration. If Mr. Rumble, whatever might have been his secret notions or consciousness of the destination of the vessel, and how much there might have been of impropriety on his part in taking part in a transaction of this kind—if his object in engaging these men was simply that the vessel should go out on a trial and come back, it would be quite different from a design to get the vessel out under the pretense of a trial trip, and thus get the men into a position in which they might be induced to enlist in the confederate service. Now, what was the state of the vessel when she went out? If we believe Mr. Pearson, the purchasers, in reselling her, were under a legal obligation to repair and equip her at an expense of about £5,000; and if so, it is idle to suppose that those who had thus bought her would have taken her out of the hands of the sellers, relieving them from the obligation to do these extensive and essential repairs. In what condition, then, did she go to sea? It appeared that she had nothing to fit her for a voyage further than for a mere trial trip, and that is a fact which tends to show that the statement is true that it was a mere trial trip. If so, and if it was intended simply to send the vessel out on a trial trip, and to see if her engines and boilers were all right, and then come back into the river and continue in the possession of Mr. Pearson and the sellers in order to her being equipped and repaired, it would be idle to ask you to come to the conclusion that Mr. Rumble, whatever part he may have taken in the engagement of the men, engaged them with a view to the confederate service, and in that view of the case the defendant ought to be acquitted. But if you believe that the vessel was to go away to Calais in order to get out of the reach of the English authorities, and that the object of Mr. Rumble in engaging these men was that when they were on the other side of the water they should be induced to enlist in the confederate service, then he ought to be convicted. The representation of Mr. Pearson was that it was intended that the vessel should come back, but that her boilers gave way, and that she had to go into harbor; that then she had to show her flag; and that it was then that the confederate flag was hastily made up and hoisted; and that the confederate officers came on board, and the true character of the vessel was declared. It is for you to decide what was the intention of Mr. Rumble in engaging these men, and what was the true motive and intention of the transaction itself. Did he know that she was intended for the confederate service, and did he lend himself to the purpose by engaging men with intent that they should be enlisted into that service? Gentlemen, it is a case of the gravest importance. It is of the gravest national importance that the law in this respect should be observed and upheld. No nation professing neutrality ought to tolerate that its subjects should take upon themselves to assist one or other of two belligerent powers—powers at war with one another. It is not consistent with its own national honor—I will not say safety, for it is a phrase you, perhaps, would not approve—but it is not consistent with its best and truest interests, and its real honor and welfare, that such a course should be permitted. Above all, one is grieved to find that an officer in her Majesty's service should, either directly or indirectly, have lent himself to a purpose so contrary to his duty and to the honor of the Crown. Gentlemen, I must say that I cannot look without great regret at a part of the case resting upon evidence which cannot be doubted or gainsaid—the conduct of Mr. Rumball in going over to the vessel after her true character and destination had been disclosed. But we must not press that too far; and though it may show that at that time, at all events, he had the intention of assisting the equipment of the vessel for the confederate service, it does not conclusively show what his intentions were at an earlier stage of the transaction. On the other hand, you must not lose sight of this—especially in reference to conversations and other parts of the case pressed against the defendant—that much of the evidence is open to the gravest suspicion. One regrets to find that in this country any person should be found who, acting on one side or the other, should pursue such an abominable system as that which appears to have been pursued in coaxing these witnesses, and keeping them together in the manner which we have heard of, with unlimited and extravagant refreshment and amusement, and supplies of money. Not that I blame those who instituted the prosecution for giving subsistence money to those witnesses whose avocations would call them out of the country, and who could not be expected to remain here without support while earning no wages, and no fault can be found with the reasonable sums disbursed for that purpose by a respectable firm of solicitors at Rochester on behalf of the admiralty. But I speak of the unlimited, extravagant debauchery which has been carried on by that man O'Kelly, (who, I hope, for the credit of this country, is

not a British subject)—it is with reference to that I speak; and I would advise that the evidence of witnesses thus dealt with should be received with extreme caution. At the same time, if the probabilities of the case, when you come to look at the other circumstances and the concurrent testimony of all the witnesses, lead to the conclusion that those statements are true, they are not lightly to be set aside. Then comes the question, What do they amount to? Do they show that the defendant engaged the men with intent that they should be enlisted in the confederate service? That depends not only on the terms and manner of their engagement, but upon the real intention and design of the parties concerned. And what that was it is for you to say, judging from all the circumstances in the case.

The jury, who had listened to this charge with the utmost attention, then consulted among themselves for some time. In the result, however, they returned a verdict of *not guilty*, which was received with some applause.

CASE OF EDWARD CAMPBELL.

[From the Liverpool Daily Post, July 1, 1864.]

LIVERPOOL POLICE COURT, *Thursday, June 30, 1864.*

ALLEGED INFRINGEMENT OF THE FOREIGN ENLISTMENT ACT.

At the borough police court yesterday Edward Campbell, a seaman's boarding-house keeper, of Regent street, appeared before Mr. Raffles to answer a summons issued against him on the information of Mr. W. G. Bateson, of the firm of Messrs. Bateson & Robinson, and charging him as follows: That he did, in the month of December last, and also in the month of May last, in the United Kingdom of Great Britain and Ireland, (to wit, in Liverpool and elsewhere,) hire, engage, retain, or procure, or attempt or endeavor to hire, retain, or procure certain persons, to wit, Patrick Shanley, John Fleming, and others, to be employed or engaged to the sea service of the Confederate States of America, contrary to the prohibition contained in the statute 59 George III, cap. 69; and that he did, in the said months of December and May, at Liverpool and elsewhere, procure, or endeavor to procure, the said Patrick Shanley and John Fleming and others to go and embark from a portion of the dominions of her Majesty, to wit, from Liverpool, for the purpose of being employed or engaged as aforesaid, contrary to the said statute. Mr. Bateson appeared to conduct the prosecution, and Mr. Carr for the defense.

Mr. Bateson stated that he appeared on behalf of the solicitors of the treasury, who had been directed by the law officers of the Crown to prefer this charge against the defendant. He was charged with having induced a number of men to go from England to France for the purpose of serving on board confederate ships of war. They first served on board the notorious vessel, the *Georgia*, which was afterward brought to the Mersey, where its career as a confederate vessel had closed. Some of the men had subsequently gone to serve on board the *Rappahannock*. Mr. Bateson proceeded to state the case, the details of which were given by the witnesses, and observed that this evidence had been submitted to the law officers of the Crown. He believed he should be able to make out a *prima facie* case; and if so, he should ask that the defendant be committed for trial at the assizes, but he would not ask that he be confined until that time, as he should have no objection to bail.

PATRICK SHANLEY was then called, and said he lodged at 13 Carlton street, and was a fireman. In December last, in consequence of what some one told him, he went to the house of Mr. Campbell, 28 Regent street. He saw Mr. Campbell, who told him to get nine men, along with himself, to go to Brest to join the *Florida*, and that he would get £7 a month, besides £10 bounty on the capstan when they joined the ship, and a month's advance. He told witness not to bring many men to his house together, as he was afraid of remarks being made. Witness took eight or nine men to Campbell, but was not present when the latter engaged them to go with him. Four of these men and witness afterward went with Campbell to France. By the direction of Campbell he took his clothes to Campbell's house. He bought £2 worth of clothes from Mr. Campbell, and gave him £1 for getting him the job. Mr. Campbell told him to meet at Anderson's public house at the corner of Boundary street. Ten of them met there on the evening of Monday the 28th December. Mr. Campbell only engaged witness and four other firemen. There were also eight or nine other men present who looked like sailors. Mr. Campbell then took all the men down to the Havre boat in the Wellington basin. There were about seventeen or eighteen of them. Witness did not know who paid the fare, but thought it was the boatswain. When they landed at Havre Mr. Campbell took them to a hotel, and from there took train to Cherbourg. At Cherbourg he took them to a hotel and gave them some drink, and then took them to another hotel, where

they slept that night. The next day Mr. Campbell took them on board the Georgia, and they slept on board that night. In the morning they were called on to the quarter-deck by Captain Maury, and their names were called over. Mr. Campbell was not present then. Witness afterward saw him on the quarter-deck with a bill in his hand for every man he had brought. There was nine shillings too much in his bill, and Mr. Campbell knocked it off, to which witness agreed. Witness afterward received his bounty money less Campbell's account. He served on board the Georgia four months and seven days. He thought that all who went from Liverpool, except three who ran away at Havre, went on board the Georgia. Witness remained on board the ship until she arrived in the Mersey. In May of the present year witness again saw Campbell, who told him to get him another lot of men. Witness went with Fleming to Campbell's house, and he engaged Fleming as a fireman at £7 a month.

By Mr. CARR: The last vessel he had served in before he went on board the Georgia was the English ship Westminster. He was paid off and left her about a fortnight before he shipped in the Florida. The first he heard of men being wanted was at the Nelson dock. The matter was talked of about the dock; he did not see the boatswain of the Georgia until he went on board the Havre steamer in the Wellington basin. He went to Mr. Campbell's house with the intention of joining the Florida. He never heard of the Georgia until he got to Cherbourg. He intended to join some ship before he saw Mr. Campbell. The latter had several boarders, who also went to Cherbourg. He thought it was on the 23d December when he first saw Mr. Campbell. He then told him he wanted to join a confederate ship. Thought Mr. Campbell told him some of his boarders were going to join. He went to Mr. Campbell's house every day after that, taking men. He told these men that he was going to join the confederate service, and they said they should like to join also. The boatswain of the Georgia and Mr. Campbell acted as commanders to them.

Question. How did Mr. Campbell act as captain to you?

Witness. By giving us drink. (Laughter.) Witness added that Mr. Campbell told him he wanted some firemen for the Florida, and he was to look for them. When he got the clothes from Mr. Campbell, he had no money to pay for them.

MAURICE BREEN, the next witness, said he resided in Williams place, Williams street. In May last, he went to Mr. Campbell's house with Fleming. He agreed to join on terms proposed by Mr. Campbell, and he told witness to take his clothes down at 8 o'clock that evening. A number of them afterward went to London by train; ten of them firemen, and the remainder were landsmen and sailors. One of the men was in uniform and had some medals. They were told to call Mr. Campbell "Captain Thomson," and Mr. Campbell himself told witness he was right in calling him by that name. Mr. Campbell took them to Dover, and then to Calais, where they went on board the Rappahannock. Mr. Campbell had first gone on board, and returned saying they were not wanted as firemen, but might go as landsmen.

JOHN FLEMING, of 3 Court Lightbody, stated that in consequence of what Thunley told him, he went to Mr. Campbell's house in May last, and made arrangements to go on board the Florida at £7 per month, and received £10 bounty when he signed articles, and to pay Campbell £2 when he joined the ship. Mr. Campbell, on another occasion, came to witness and a number of other men at the Lime street station, and they went to London, and from London to Dover and Calais. There were eighteen or nineteen went away from Liverpool; one ran away at Calais, and ten came back to Liverpool. Witness did not know whether any joined the ship or not. Mr. Campbell told them they were two or three days behind time, and they had got men from elsewhere; and they came back with Mr. Campbell greatly disappointed.

No other witnesses were called, and Mr. Carr addressed the bench in defense. He contended that there was no evidence within the meaning of the act of Parliament. He was not surprised that Mr. Bateson stated, by way of apology—for he must look upon it in that light—that the treasury had directed this prosecution, for he was satisfied that if Mr. Bateson had been left to his own judgment he never would have advanced such a prosecution. His first answer was, that the evidence did not prove the charge under the act of Parliament. The act referred to a person who should engage any person within the United Kingdom to be employed in war service by some foreign state. Now, there was not the slightest evidence before the court that the vessels the men were to go to were ships of war, or that Mr. Campbell knew that they were ships of war. And further, to come within the meaning of the act, the men were to be employed as "an officer, or as a soldier, or as a sailor, or a marine." The parties brought before the bench were firemen, and there was no evidence to show that a single officer, soldier, sailor, or marine was engaged, and at the time this act was passed, in 1819, there would be no firemen, so that they could not be contemplated by the act.

Mr. RAFFLES. I think there is evidence. He engaged the whole of these nineteen men. I think we had better not argue this case; I shall certainly send it to trial. There is a *prima facie* case, I think.

Mr. Carr raises some further objections, and submitted that the defendant was noth-

ing but a boarding-master going to get his pay. He thought that had not the prosecution been instituted by the treasury, it would not have been heard at such length.

Mr. Raffles said he should not take upon himself to say there was no case, although it might bristle with legal points.

The case was then formally adjourned until to-day, when bail will be offered on behalf of defendant.

CASE OF JAMES CUNNINGHAM.*

[From the Liverpool Daily Post, July 8, 1864.]

INFORMATION UNDER THE FOREIGN ENLISTMENT ACT.

James Cunningham appeared to answer an information, laid under the foreign enlistment act, stating that he did, in the month of February last, in the United Kingdom of Great Britain and Ireland, namely, in Liverpool and elsewhere, hire, engage, retain, or procure, or did attempt to hire, engage, retain, or procure, James Graham and others to be employed or engaged in the sea service of the Confederate States of America, contrary to the prohibition in the statute 59th George III, chap. 69; that he did in February last, in Liverpool and elsewhere, procure, or endeavor to procure, James Graham and others to embark from a part of the dominions of her Majesty for the purpose of being engaged as aforesaid; that he, being a natural-born subject of her Majesty, did, without the leave or license of her Majesty first obtained, agree to enlist or enter, or to serve, and did serve on board a ship intended to be used for war-like purposes in the service of the Confederate States of America; and that he did, without such leave or license as aforesaid, go to Calais in the empire of France, with intent to enter the sea service of the Confederate States of America, contrary to the statute. Mr. Bateson, who was for the prosecution, stated that the defendant had, in February last, taken over from Liverpool to Calais a considerable number of men to join the Rappahannock. Mr. Bateson was about to call the first witness, when the defendant expressed a desire to engage an attorney and the magistrate agreed to adjourn the case until to-day, and to accept bail for the defendant in two sureties in £50 each. It was stated that the defendant was an engineer, and had been in the employ of Mr. Jack, of Liverpool.

[From the Liverpool Daily Post, August 11, 1864. †]

LIVERPOOL ASSIZES, CROWN COURT, August 10.

Before the Lord Chief Justice Cockburn.

THE CHARGE OF INFRINGING THE FOREIGN ENLISTMENT ACT.

James Cunningham (who had been out on bail) was indicted for having, on the 9th of February, infringed the foreign enlistment act. Mr. Attorney General James, Q. C., with Mr. Lushington, appeared for the prosecution; Mr. Littler for the prisoner.

The attorney general said the indictment was instituted by her Majesty's government under a sense of duty which called upon the executive to prosecute the defendant for a transgression of the law. No man in this country could be ignorant of the difficulties which were very likely to occur supposing the government did not hold the scales of neutrality with perfect equality. Of course everybody was well aware of the difficulties which had occurred in this country, more especially with respect to the great case of the Alexandra. This case did not pretend to vie with that in importance, but still it was one of very great importance to the interests of all, because he was quite sure all of us would be very loth to be involved in a war with the United States, brought about by the illegal acts of any one of the subjects of this country; and consequently it was the duty of all to do all in their power to prevent complications of that kind. He stated the circumstances under which the foreign enlistment act was passed, and explained that by the second section of that act British subjects enlisting in this country, or engaging to enlist to serve in a foreign service, or going from this country with the intention of doing so, were guilty of a misdemeanor. The indictment was laid under that section, and the prisoner was charged with having himself engaged to serve on board one of the confederate ships, and also under various counts with having induced and procured others to go from this country intending them to engage in war-

* Referred to under the head of "Enforcement of Neutrality," subdivision "Prosecution of Rebel Agents," vol. II, pp. 464-479.

† Transmitted with dispatch from Mr. Adams to Mr. Seward, No. 759, August 18, 1864, vol. II, p. 467.

like operations on behalf of the confederates. Having stated the circumstances under which the charge was brought, he would now mention the facts. The vessel was one of which they all had heard, and was called the *Rappahannock*, and was formerly the *Victor*, a ship in her Majesty's navy, which, being sold by government, was afterward purchased on behalf of the southern confederacy. The prisoner, in the month of February, collected together a number of engineers and firemen, and offered them, at a public house in Athol street, very good wages indeed if they would agree to go to the East Indies in a vessel that, he said, was lying off Gravesend. The ordinary wages of an engineer were some £10 or £12 a month, but the prisoner offered the men £17 a month. He also offered the firemen £6 10s. a month, a sum considerably beyond the ordinary sum paid in the merchant navy. Some representations were made to the men, and he (the attorney general) was glad to say the people of this country were nothing loath to enter into speculations of a business kind provided they were well paid. The men in question were told that they need not bring their clothes with them, so that they had not to find their own kit. The men met at the Lime street station, and were conveyed thence to London. On arriving at Euston square station they were conveyed in cabs to the London bridge station, where they again took train, and were conveyed to Dover. At this place they were refreshed very liberally with drink. They were then told that their vessel was in the stream, and that a steamer there was her tender. They went on board the steamer, which turned out to be the *Calais* boat, where they were all taken on board the *Rappahannock*. On the engineers being taken down into the cabin they were told that they were about to enter into the service of the Confederate States; and, in reply to a question put to them, they expressed their willingness to serve. After entering into an agreement to do so, they were taken on shore and supplied with the confederate uniform. On the firemen being asked if they would enlist in the confederate service, they expressed their surprise, and said they had not come there for that purpose. They stated that they were willing to carry out their agreement as made in Liverpool, and they were ultimately sworn to do so. Subsequently there was a dispute on board the *Rappahannock*, and some of the men were put in irons. On being released they seized the first opportunity of running away, and it was upon the information given by them that the present proceedings were taken. If he (the attorney general) should prove the facts to which he had called their attention, he asked them to convict the prisoner. The object which her Majesty's government had in view in instituting that prosecution was rather to prevent than to punish, and to show that no person could, with impunity, violate the law. The peace of this country could only be insured by a faithful observance of that neutrality which we professed with respect to the unhappy war now being waged in America, and by such conduct as that with which the prisoner was now charged he had rendered himself amenable to the law.

The engineers and firemen engaged by the prisoner were then called, and they proved the facts stated in the opening speech of the learned counsel, and stated that the railway tickets for their journey to London and Dover were given to them by the prisoner, who was the second engineer of the *Rappahannock*. The tickets were purchased by a person named Codd.

Mr. Henry William Sanders, the signet clerk in the office of the secretary of state for the home department, proved that no license was given to the prisoner either to enlist himself or to cause others to enlist in the service of the Confederate States. Mr. Herbert Mauson Suft gave similar evidence.

Mr. Littler, having taken two or three legal objections to the counts in the indictment, proceeded to address the jury on the facts, remarking that it was not proved that the prisoner was aware, at the time he engaged the engineers and the firemen, that he and they were going on board a foreign ship of war; and although the wages he offered were unusually high, he might have really thought the men would be required for mercantile purposes.

His lordship, in summing up, remarked upon the charming simplicity with which the learned counsel alluded to the prisoner's probable ignorance of the purposes for which the men would be required, and said it would be for the jury to say whether or not the prisoner had been clearly proved to have infringed the provisions of the foreign enlistment act.

The jury immediately returned a verdict of guilty.

Mr. Littler then stated that the prisoner, who bore an excellent character, was very sorry for what he had done, and trusted that, under the circumstances, his lordship would not sentence him to imprisonment.

Mr. L. Temple said he appeared for Joseph Buchanan, who was also charged with having infringed the foreign enlistment act; and his client was willing to plead guilty to having enlisted in the confederate service, but he denied having induced others to enlist. He might mention to his lordship that Lord Chief Justice Earle had, in the case of a former trial at the central criminal court, London, for infringing the same act, by enlisting for the *Rappahannock*, ordered the man to enter into his own recognizances to appear to receive judgment when called upon.

Buchanan was then placed in the dock with Cunningham, and pleaded guilty.

The attorney general having stated that he had no observations to make with respect to the punishment which he thought the prisoners ought to receive,

His lordship said he was willing to pass the same sentence as that passed by his brother Earle. It must, however, be clearly understood that if a man violated the law, he would, when apprehended, be punished for so doing. Any repetition of the offense of which the prisoner had been guilty would be treated with such severity as the law allowed. It was essential for the interests of England that the subjects of her Majesty should not go and enlist in the service of a foreign state that was at that time a belligerent, and by their conduct possibly embroil in war this country. That was an offence, and a very grave offense, against the law, but the prisoners would, on this occasion, be liberated on entering into their own recognizances in the sum of £150 each, to appear to receive judgment, if required to do so. So long as the prisoners did not again offend they would not be required to appear, but if they did offend they might rely upon it the judgment now passed would be enforced, and, further, that they would be severely punished.

The prisoners then entered into the required sureties and were liberated.

CASE OF JAMES CAMPBELL.

James Campbell pleaded guilty to having infringed the provisions of the foreign enlistment act, and he was also ordered to enter into his own recognizances in £150 to appear to receive judgment when called upon.

The court arose at a quarter past six o'clock.

CASE OF JOHN SEYMOUR.*

[From the London Times of July 15, 1864.†]

CENTRAL CRIMINAL COURT, July 14.—OLD COURT.

Before Lord Chief Justice Earle.

John Seymour, a shipping agent living in Welclose square, pleaded "guilty" to an indictment charging him with a misdemeanor under the foreign enlistment act.

The solicitor general and Mr. Giffard, instructed by the solicitor to the treasury, were counsel for the Crown; and Mr. Metcalfe, with whom was Mr. F. H. Lewis, had been retained for the prisoner.

Mr. Metcalfe, with the view to a mitigation of punishment, stated that up to the present time the prisoner had borne a good character, and had lived in one place for many years, carrying on the business of a shipping agent. It might be that he had acted illegally, but he was not aware that he was doing wrong, and the men he hired were simply hired as firemen, and not for any naval or military service.

The solicitor general said the object of this prosecution, on the part of the Crown, was rather prevention than punishment. It was deemed absolutely necessary to prevent a system which had been carried on for some time of enlisting persons in the service of foreign states. He was willing to believe that the prisoner had hitherto borne a respectable character, and he was bound to say he had been rather a subordinate agent in the transaction than a principal. Under those circumstances, as far as the Crown was concerned, he should be satisfied if the prisoner were discharged on his own recognizances to appear and receive judgment if called upon; but it must be on the distinct understanding that in the event of the slightest repetition of the offense, he would be called upon to surrender himself and receive sentence.

Chief Justice Earle said he was disposed to accede to the suggestion. It could hardly be too well known in these times that the law prohibited the enlistment of persons for any military or naval purpose, and also the procuring, or endeavoring to procure, persons so to enlist in the service of a foreign belligerent state at peace with us. The law was, therefore, violated in this case by sending out firemen to serve on board a vessel of war of a foreign state. The prisoner had pleaded "guilty," but as the counsel for the Crown would be satisfied if he were discharged on his own recognizances to appear and receive judgment if called upon, he was discharged accordingly. If the offense was repeated the judgment would be a severe one, but if the prisoner abstained from the repetition of it he would hear no more of the matter.

* Referred to under the head of "Enforcement of Neutrality," subdivision "Prosecution of Rebel Agents," vol. II, pp. 464-479.

† Transmitted with dispatch from Mr. Adams to Mr. Seward, No. 748, July 15, 1864, vol. II, p. 466.

CASE OF CAPTAIN P. S. CORBETT.*

[From the London Daily News, Friday, January 6, 1865.]

ALLEGED CONFEDERATE ENLISTMENT.

At Bow street police court yesterday Captain P. S. Corbett was brought up in custody of Inspector Clarke, of the Thames police, on the charge of "unlawfully attempting in October last, on the high seas, within the jurisdiction of the admiralty of England, to enlist British seamen to serve on board a certain vessel against the government of the United States of America, with which government her Majesty is now at peace."

Mr. Giffard, instructed by the solicitors of the treasury, conducted the prosecution, and Mr. Sleigh, instructed by Messrs. Gregory, Skinner & Rowcliffe, of Bedford row, for the defendant.

The proceedings were taken under the foreign enlistment act, 9th George III, cap. 69.

Upon the prisoner being placed at the bar, Mr. Burnaby read the charge from the warrant to the effect that he, the said Peter Suther Corbett, being a British subject, did, in the month of October, and on the high seas, attempt and endeavor to procure one John Purchase to enlist and hire himself as a sailor on board a steamship named the Sea King, to make war against citizens of the United States with whom her Majesty is not at war, and he not having her Majesty's authority signified to him in any way by order of counsel or otherwise.

Mr. SLEIGH said: Sir, I appear for the defendant, and I have to submit to you an application in respect to which it will be in your discretion to decide whether it ought not to be granted. My clients are instructed, partly by telegraph and partly by letter, and I myself have only been instructed within the last hour. My application is that the defendant may be at once remanded without any evidence being gone into on the present occasion.

Sir THOMAS HENRY. I must hear what the charge is, and take sufficient evidence to justify a remand.

Mr. SLEIGH. I thought, sir, that such would be your opinion, but I am bound to make the application.

Mr. GIFFARD. Sir, I appear for the prosecution against the gentleman at the bar, and I am bound to say that the prosecution is instituted under circumstances of no ordinary importance, because if the offense, which it is suggested that this gentleman has committed, was to be repeated with impunity, our ports might be made a rendezvous for recruiting for foreign governments at war with each other, and the peace and security of this country might thus be endangered by those who committed such an offense for their own profit. The gentleman at the bar is in the habit of acting as master of merchantmen. In September last he procured a variety of persons, subjects of her Majesty, to agree to go upon a voyage in a vessel called the Sea King. They signed articles, as the captain stated, for a voyage to Bombay, the Indian Ocean, China, and Australia; the voyage not to exceed two years. The Sea King started from the port of London with a great variety of persons on board, one of whom was the person named in the warrant. As soon as the vessel got into the channel full steam was put on and she proceeded at a rapid rate through the channel. Why that was done will become obvious afterward. But after the vessel had proceeded so far that it might be supposed she had escaped the supervision of the English authorities, the fires were put out, and she proceeded under easy sail to Madeira, whence she went not actually into port, but near enough to signal a vessel called the Laurel, which was lying there. She answered the signal, came out and led the way to the island called "Deserters." There the Laurel and Sea King anchored together. The persons on board the Laurel made preparations for transferring some cargo to the Sea King. The men were put to work and took on board the Sea King a great variety of arms and munitions of war and things fit and proper for a warlike cruiser. Then the hands were mustered and addressed by the defendant, who informed them that the Sea King was intended as a confederate cruiser, not to fight, but to take prizes like the Alabama, and he advised them to take service in her, which would be very profitable, and most of them being single men. The name of the vessel was then altered to the Shenandoah. An officer in the confederate service and uniform came on board and took charge of the vessel. Liquor was handed about, and I am told a bucket of sovereigns. Some of the men yielded to these persuasions and entered the confederate service; others refused. When the Sea King was going away the Laurel took on board those who had refused to join, and conveyed them to Teneriffe. But they were not permitted to leave at once, lest they should give information. The defendant returned in the Laurel; information, however, was given; several of the men were examined as witnesses before a consul, and the defendant was sent back to England in custody. This case will resolve itself into sev-

* Referred to under the head of "Enforcement of Neutrality," subdivision "Prosecution of Rebel Agents," vol. II, pp. 464-479, and also under "Rebel Cruisers," subdivision "Shenandoah," vol. III, pp. 318-507.

eral charges. In the first place, though the persons who joined the *Sea King* were conscious what her owners were about to do with her, and for what purpose they had been enlisted, yet so far as Captain Corbett was concerned, there was the commencement of the offense, of endeavoring to enlist men to serve against the United States. Further, he, a British subject, tried to induce others on the high seas to do that which is an offense in a British subject, in whatever part of the world it might be committed. I submit, sir, that if I prove these facts I am entitled to say that there is a case which the defendant should be called upon to answer, and that if he cannot answer it he should be committed to take his trial on this charge.

Mr. Burnaby, the chief clerk, then read over the information of John Hurcar, on which the warrant was granted.

"[John Hurcar, a sea-faring man, said: I live at 10½ Wapping-wall; I am a native of Stromness. At the end of September last I went on board the *Sea King*, then lying in the East India docks. I went with one John Wilson, a carpenter. We asked the chief mate if he wanted hands, and he said he did, and told us to wait and see the captain. I had seen in the newspapers that the *Sea King* was about to start for Bombay. The prisoner came on board in about an hour. I asked him if he could give me a chance as acting boatswain. He said he would, and asked me if we were married or single. He said he should be going in about ten days. I then went away, and on the 5th of October I went to Green's home and signed articles for a voyage to Bombay as acting boatswain, at £2 10s. a month. We sailed on the 8th of October straight to Madeira. When we got there we did not go into port, but signaled a vessel which came out to us, and we followed her to the Desertat Island. When we got there we anchored, and the other vessel came alongside and also anchored. She was called the *Laurel*. We took on board from the *Laurel* shot, shell, guns, and powder, and between thirty and forty men, of whom the greater part seemed to be officers. After we had finished work Captain Corbett, the prisoner, called us all aft and said, "I have sold this vessel to the confederate government, and I strongly recommend you men to join her. You are most of you single men, and you will make a fine thing of it." I refused. He then introduced us to the men behind him, and said, "These are the persons to whom I have sold the vessel, and they will arrange for your pay. The vessel is not to fight, but is to be a cruiser like the *Alabama*." I said, "I have signed for a voyage to India, and want three months' wages [and my passage back to England before I leave the ship]." The other men said the same. Captain Corbett said, "I will not give it to you." The persons to whom he had before introduced us, and who appeared to be officers, as I have before stated, then tried all they could to get us to join. They offered us £4 a month and as much as £15 bounty, but we would not join. At last all of us but four went on board the *Laurel*. After going on board I saw the confederate flag hoisted on board the *Sea King*. At that time the men who came off the *Laurel* on board the *Sea King* were trying to persuade us to join that ship. They told us that the name of the ship would be changed from the *Sea King* to the *Shenandoah*. After leaving the Desertat Island in the *Laurel* we sailed in the *Laurel* for Tenerife, and on arriving there we all landed. At the time the above conversation was going on between the prisoner and ourselves I saw the English flag flying on both steam vessels.]

EDWARD AMOS. I am a native of Herne Bay, in the County of Kent. I am a sea-faring man. In October last I went down to a vessel named the *Sea King*, which was then lying in the East India docks. On the 5th of October I went on board the *Sea King* and saw the chief mate. I asked him if he wanted hands. I showed him my discharge and gave it to him. I then went to Green's house and saw the defendant there. He was pointed out to me as the captain. After I had signed my discharge was given to me in the waiting room. It was afterward given to Captain Corbett. I signed articles for £2 10s. per month.

Mr. SLEIGH. I think they ought to be produced.

Sir THOMAS HENRY. If you object, of course they must be produced.

Mr. SLEIGH. If it is understood that they are to be produced I will not object.

Mr. GIFFARD. I will proceed regularly and not ask any questions.

Witness continued: I signed articles on the 8th, and then we sailed. I do not know the rate of steam, but we went through the channel. The steam was then put down, and we went direct to Madeira. We did not go into port but signaled a vessel there, which afterward turned out to be the *Laurel*. She came out and we afterward stood out to sea. We were side by side, about a mile apart. We went to Desertat Island, when the *Laurel* let go her anchor in seventeen fathoms of water. Some boats came alongside with natives, and we got her tackle ready to remove a heavy cargo. One package contained a gun, for it broke the case and I saw it. I do not know that some cases were labelled "Glass with care," as I cannot read. I do not know what the caliber of the gun was. Other cases were like the one that broke, and very heavy. Some cases of shot and shell broke and rolled about the deck. We commenced removing the heavy cargo about four o'clock in the afternoon, and finished about two or

* The testimony of John Hurcar [placed between brackets] is taken from the London Times of the 6th of January, 1865.

three o'clock in the morning. The next day the captain mustered us on deck and told us "I have sold the ship; follow me." I went on board the *Laurel* with the captain and the rest of the crew. I did not hear the captain say anything about joining. He did not say to whom he had sold the ship. The men were collected around the capstan and the captain was talking to them, but what he said I could not hear. After I got on board the *Laurel*, I saw a flag hoisted on the *Sea King* with stars on it and a little red in the corner.

The evidence of Michael Hurley, another of the seamen, and of Peter Tow, a sailmaker, who was also engaged by Captain Corbett, was then taken.

*[MICHAEL HURLEY said: I shipped on board the *Sea King* as an ordinary seaman on the 6th of October. I was on board about a week before she sailed, trimming coals. I asked Captain Corbett if he wanted a coal trimmer, and he said he wanted a few ordinary seamen. I do not know where I signed for, but I understood it was a long way off, as I signed for two years. The *Sea King* steamed down the river, but I do not know the speed. We went to Madeira, and I saw a flag run up. It looked like an English flag of some sort or other. The *Laurel* came out and the two vessels went in company to Desertas Island. The *Laurel* then came alongside the *Sea King*. I did not help to get the cargo out of the *Laurel*, as I had just come out of the stoke-hole. When the men were mustered round the capstan I was there. The captain (Corbett) said, "Now, men, I have sold the ship, and all or any of you that want to go with her, there is a good opportunity for you."

MR. GIFFARD. What did he say as to the sale of the vessel?

WITNESS. He said he had sold the vessel to the gentlemen present, who were officers of some sort.

MR. GIFFARD. Well, what did he say about the sale of the vessel?

WITNESS. Well, I forget what he said.

MR. GIFFARD. No, no; that will not do.

SIR T. HENRY. You are sworn to tell the truth, and you must do so.

WITNESS. Captain Corbett said, "Men, I have sold the ship, and there is a fine opportunity for any of you to go. There will be good pay and large bounty. They offered me £5 10s. a month. The gentleman pointed out by Captain Corbett was dressed in a gray or drab suit, but I do not know if it was uniform. I did not notice if he had a sword, but I am sure he had a hat on. Captain Corbett was present when the gentleman offered me £10 bounty and £5 10s. a month. The gentleman told me that for that I was to enlist in the confederate navy. I refused to do so. Captain Corbett said the *Sea King* was going on the same "lay" as the *Alabama*—to take ships. I went in the *Laurel* to Teneriffe.

SIR T. HENRY. Now, witness, let me ask you what was the color of the gentleman's clothes?

WITNESS. It is so long ago that I do not recollect.

SIR T. HENRY. It is not so long; you must recollect.

WITNESS. I think it was a dark drab.

MR. GIFFARD. Upon this evidence I ask for a remand.

MR. SLEIGH. I have gentlemen here of the highest respectability who will be bail for the defendant to any moderate amount that you may fix.

SIR T. HENRY. I will accept two securities in £250 each, and himself in £500.

MR. SLEIGH. The bail is in attendance, and I presume they will not be objected to by my learned friend.

MR. GIFFARD (after consulting with the treasury solicitor) said there was one witness who was in attendance, and whose evidence he should like to take.

PETER TOW was then called, and said: I am a sailmaker, and live at No. 5 Eagle street, Victoria dock road; I joined the *Sea King* on the 7th of October last. I applied to the ship in consequence of a letter that I had received, stating that they wanted a sailmaker on board. I saw Captain Corbett, and he asked me if I was a sailmaker. I told him that I was. He then put the question to me whether I would go to India on a voyage, not to exceed two years, and I said I would. I was to have £4 a month. We sailed on Saturday, the 10th of October, about 5 o'clock in the morning. We sailed to Madeira, and signaled the *Laurel*, which joined us, and we then sailed in company to the island of Desertas. The *Laurel* dropped anchor first, and the *Sea King* did the same shortly afterward. The captain of the *Laurel* shortly afterward came on board the *Sea King*, and informed us that he would be alongside in about fifteen or twenty minutes. The *Laurel* was a screw steamer. She came alongside in about the time specified, when the mate of the *Sea King* told us to secure the mainyard to take on board cases of about three tons weight. That was done, and the men on board the *Sea King* commenced unloading the cases. I assisted in the work. I afterward assisted in bringing gun-carriages on board. I did not see any of the large cases break, but saw some of the small cases of shot and shell broken on the deck. We left off lifting the cargo of the *Laurel* into the *Sea King* about two in the morning, and commenced again

* The testimony of Michael Hurley and of Peter Tow [placed between brackets] is taken from the *London Times* of the 6th of January, 1865.

at six, when the work was continued until about nine o'clock. Several other persons besides the captain of the Laurel came on board the Sea King. They were for the most part dressed like other sailors, but one wore a gray uniform. He stated that he was the captain of the ship. When Captain Corbett mustered us aft, he said that we had signed articles to go to Bombay, but that if he could sell the ship on the way he could do it, as it was in the articles that he might do so. But it was not in the articles.

Mr. GIFFARD. The witness means that the captain said it was in the articles, but he (the witness) says it was not in the articles.

Sir THOMAS HENRY. That shows the importance of having the articles produced.

Mr. GIFFARD. They shall be produced on the next occasion.

The witness continued:

Captain Corbett said he would give us a free passage home and two months' pay besides. The captain or new commander asked us to join the ship, Captain Corbett being present at the time. The new commander offered me £7 10s. a month, and £15 bounty, if I would join the ship. He said there would be no fighting unless they came against a man-of-war, and then they would have to fight. He said we should only have to sink ships and go privateering. I did not hear Captain Corbett say anything about "single man" or "a good opportunity." Captain Corbett said he had sold the ship, and that if we wished to join it we could, but that if we did not, we must go on board the Laurel with him. He said, "I have sold the ship now, and have got the money for it, and those who wish to go home must come with me."

Mr. GIFFARD. That is all the evidence I propose offering to-day.

Mr. SLEIGH. I admit that this case is one of great international importance, but all that I have to address myself to at the present moment is the question of bail. The gentlemen I propose offering are of the highest respectability. They are merchants in the city of London. They are Mr. Forster Mortimore and Mr. James Anning.]

The defendant was then remanded, Mr. Forster Mortimore and Mr. James Anning, city merchants, being accepted as bail.

The defendant then left the court with his friends.

[From the London Daily News, Friday, January 20, 1865.]

Captain Peter Suther Corbett appeared yesterday before the chief magistrate, Sir Thomas Henry, at the Bow Street police court, in discharge of his recognizances on the charge of enlisting seamen to serve on board the Shenandoah.

Mr. Giffard, instructed by the solicitors to the treasury, conducted the prosecution, and Mr. Sleigh defended the prisoner.

At the commencement of the proceedings,

Mr. Sleigh said he hoped it would not be thought unreasonable if he asked that the witnesses should not be called into court until they were about to be examined.

Sir THOMAS HENRY. Oh, certainly; let the witnesses be out of court, except the one under examination.

ALFRED HILL deposed: I am a native of Poplar, Middlesex. In the beginning of October I saw an advertisement at Green's Sailors' Home, in consequence of which I went on board the Sea King the next day at the East India docks and saw the chief engineer. From what he said, I went to Green's Home and saw Captain Corbett, and signed the articles now produced, as a fireman, to serve on board the Sea King for a voyage to China, India, and Japan, at £4 per month. We sailed on the 8th October. We steamed down channel, and then dropped steam, hoisted the propeller, and made sail. Off Madeira we signaled a vessel called the Laurel. She came out and put to sea, and we followed her to a place called the Desertas, where we anchored, and she came alongside. We had orders given to rig a purchase out to lift about three tons. Six heavy cases were taken from the Laurel, and one of them broke, and I saw a piece of a gun in it. There were other cases, some which were broken, and the shot and shell fell about the deck. The captain asked me to lend a hand, and also told us to put the lights out, as he was going to get powder on board. The next morning we were mustered aft. There was a stout gentleman with Captain Corbett, who said he (the stout gentleman) was a commander in the confederate navy. He said he had sold the ship, and he asked us to join the ship, or he would send us home in the mail boat if we did not like to join. He told us we would get seven pounds a month, and £15 bounty, and it would be a very good thing for us. He said we were not to be a fighting ship, but only to take homeward-bound merchant vessels; but if we fell in with a man-of-war, we must fight our way out. I said I would not go in one of those boats. Another man, named Ellison, said we had shipped to go to Bombay, and we wanted to go there, according to our articles. The short gentleman was dressed in a gray coat, with gold strips on the cuff, and bright buttons. It was a uniform. We went back to Tenerife in the Laurel. After we left the Sea King we saw a flag hoisted on board. It was a white flag with a blue cross in the upper corner.

Mr. SLEIGH. Was it not a blue peter ?

WITNESS. No.

Mr. GIFFARD. Not at all like a blue peter.

Cross-examined by Mr. SLEIGH: Witness first knew of the case by seeing it in the papers.

(The witness here produced his discharge, signed by the prisoner, and also a discharge for the Hydaspes, in which he made his last voyage.)

JOHN ELLERSON stated that he shipped on board the Sea King as quartermaster. He was to have three pounds a month pay, being ten shillings more than an able seaman. They signaled the Laurel, who led the way to Desertas, where they shipped a quantity of shot, shell, and small arms. He continued: We began at 11 o'clock and worked till 2 o'clock, when we took a spell for three or four hours, and worked again till breakfast. The boatswain then piped us aft to speak to the captain, who was in the saloon. There was a gentleman there, in a gray coat with stripes on the cuffs. Captain Corbett said: "Well, men, I have sold the ship. This is the captain that is to take charge. You men, that like to, join; this captain will give you good money." The gentleman then spoke up, and said it would be a good change for us who wished to join, and those who did not he would send back to England. I said: "You have sold the ship; what have you done with the money? The ship must have been legally sold before she left England, and you have brought us out under false articles. I want some money from you, and you had better pay us before we leave the ship; for, perhaps when we get to England we may lose you." He said: "Well, men, I can't help it." Then the other captain spoke up; he said: "I have come to take charge of the ship as a privateer for the confederate government, and her name is now the Shenandoah." He mentioned his own name, but I have forgotten it. He told us we should have £7 per month for six months, and £20 bounty. I told him I belonged to the English navy, and I did not want to enter the confederate service. I had never earned money in the country, and I would not take up arms for that country. He said we were not going into that country, but only to the coast. I said I did not care; I was done with his ship. One of the men said it had better be settled at the Board of Trade—meaning about the wages. Presently the captain came out of the saloon and ran along the ship buttoning his coat, and saying: "Well, men, I am off; follow me." He went as far as the gangway amidships. About eight men followed him. He turned back and went to the saloon again, and he took a man named John Allen into the saloon and tried to persuade him to join, and he (the captain) would say nothing about the reserve. Allen was a naval reserve man, and not at liberty to ship without leave. I was also a naval reserve man. Allen is since gone to sea again—to the East Indies. We went on board the Laurel with Captain Corbett, and were taken back to Teneriffe, and sent home in the Calabar. There were twelve or fourteen officers on board, who had come from the Laurel.

GEORGE SELL signed articles on the 7th October, as an ordinary seaman, at £2 a month, to serve in the Sea King on a voyage to Bombay. They sailed on the eighth. He corroborated the other witnesses as to the sailing to Madeira, following the Laurel to Desertas, and hoisting packages on board the Sea King. They were then called aft, and Captain Corbett said: "I have sold the ship, my men, to be a confederate cruiser. If any of you wish to join her, you can. You are, most of you, single men, and you will very likely make a good thing of it." He also said that if we did not like to join the ship we could follow him. He said we were to have £4 10s. a month, and £10 bounty. She was not going to fight, but only to take prizes, the same as the Alabama, unless she got jammed in a corner, and then she must fight her way out. Captain Corbett repeated the words after the other officer, saying: "You know what the commander says," &c. When the commander came on board he asked Captain Corbett if he had many married men on board, and Captain Corbett replied, No; he took care of that when he shipped them. I heard Ellison say he had signed under the English flag, and he would not go under any other. I heard Captain Corbett ask several of the men in the shipping office whether they were married or single. He did not ask me. I am twenty-two years of age. (He looks younger.) I cannot remember the names of any of the men that the question was put to except the boatswain, and he is not now in England.

[The witness Ellison being recalled said he was a single man, but the prisoner had not asked him. He heard the prisoner say he could not give half-pay notes. It was usual to give them whether the men were single or married.]

John Webster, who shipped as a fireman at £4 5s. a month, produced his articles, and gave evidence to the same effect. The "gentleman in gray" told him the ship was to be called Shenandoah. Before they got back to Teneriffe Captain Corbett said that if any questions were asked of them ashore they were to say they were shipwrecked sailors, and had lost their ship at sea. When they got to Teneriffe they were not allowed to land for two days, and when they did land the Laurel weighed anchor and sailed immediately.

Mr. Joseph Date, clerk in the general registry office of seamen, produced the original articles of the Sea King.

* The proceedings [placed between brackets] are taken from the London Times of the 6th of January 1865.

Inspector Clarke proved the apprehension of the prisoner at Liverpool upon Sir Thomas Henry's warrant. The prisoner told him it was unnecessary to read the warrant, as he knew what it was. He had expected this.

This was the case for the Crown. Mr. Sleigh was aware that this was not the place or opportunity to discuss whether the government, in instituting these proceedings, had acted upon a sound policy. The government had instituted other proceedings which had resulted in a signal failure.

Sir T. Henry said Mr. Sleigh had better confine himself to this case.

Mr. Sleigh said that of course he must be dumb if his mouth was shut by the court, but, though thus fettered, he must say it was fettered with pain. He must say, the government, having failed in proceedings with reference to ships, were now trying what they could do with proceedings as to the enlistment of men. The case would involve grave questions of international law. But while he had not hesitated to indicate what he believed to be the feeling of the community with regard to these attempts to restrict private enterprise, he was quite sure that the magistrate would not be disposed to decide upon those international questions. Neither would his worship assume the functions of a jury by deciding upon those questions of fact which would have to be decided if the full defense were to be entered into at this court. He had no doubt, therefore, that Sir Thomas Henry would in any case commit the prisoner to take his trial. Having these considerations in mind, he thought he should best consult his client's interests by reserving the defense. At the same time he must mention that Captain Corbett had a most conclusive and triumphant answer to the charge upon the facts; and he therefore hoped the public would suspend their judgment, and not hastily suppose that Captain Corbett had been guilty of any illegal act. He presumed the same bail would be accepted as upon the remand.

Sir Thomas Henry committed the prisoner for trial, and the former bail was renewed.]

[From the London Times, November 30, 1865. *]

COURT OF QUEEN'S BENCH, *Westminster*, November 29.

Sitting at nisi prius, before the lord chief justice and a special jury.

The Queen vs. Corbett.

This was an indictment against Captain Corbett, for alleged infringements of the foreign enlistment act in the enlisting of men for the Sea King, which afterward became the celebrated Shenandoah. There were fifty-eight counts in the indictment, varying the charge both as to the names of the men enlisted, and as to the particular act of enlistment or attempted enlistment alleged. Thus, the first set of counts relating to a man named Ellison: That Peter Suther Corbett, being a natural-born subject of our lady the Queen, on the 19th day of October, A. D. 1864, upon the high seas, to wit, in and on board of a certain British ship called the Sea King, did unlawfully counsel and incite one John Ellison, then being a natural-born subject of our lady the Queen, without the leave or license of her Majesty for that purpose first had and obtained, to enter himself to serve as a sailor in and on board a certain ship or vessel intended to be used for warlike purposes in the service of, and for, under, and in aid of a certain foreign power, that is to say, a foreign power commonly called the Confederate States of America. Second count, same, except in the service of, and for, under, and in aid of certain persons assuming to exercise the powers of government in a foreign country commonly called the Confederate States of America. Third count, same, except counsel and incite to enter himself "to be employed and engaged in and on board," &c., ending same as first count. Fourth count, same as third, except ending same as second count. Fifth count, same as first, except counsel and incite, &c., "to agree to enter himself to serve," &c. Sixth count, same as last, except the ending, which same as second count, beginning in the service, &c. Seventh count, same as first count, except counsel and incite "to agree to enter himself to be employed and engaged in and on board," &c. Eighth count, same as last, except the ending, which same as in second count, beginning in the service, &c. Ninth count, same as in first count, except counsel and incite "to serve in and on board," &c. Tenth count, same as last, except ending as in second count. There were other counts making similar charges as to the other men, Allen, Ellis, &c. And then, the thirty-seventh count stated that the said Peter Suther Corbett, on the 25th day of September, A. D. 1864, within the United Kingdom of Great Britain and Ireland, and within the jurisdiction of the said court, to wit, at the East India docks, in the parish of All Saints, Poplar, in the county of Middlesex, unlawfully and willfully did endeavor to procure one John Ellison, without the leave or license of her Majesty for that purpose first had and obtained, to serve and be em-

* Transmitted with dispatch from Mr. Adams to Mr. Seward, No. 1099, December 1, 1865, vol. II, p. 479.

ployed as a sailor in sea service and on board a ship or vessel intended to be used for warlike purposes in the service of and for, under, and in aid of a certain foreign power, that is to say, a certain foreign power commonly called the Confederate States of America, against the form of the statute in that case made and provided. Several other counts raised the charge as to the act alleged, and then the fortieth count was the same as the thirty-seventh, except in the service of and for, under, and in aid of certain persons assuming to exercise the powers of government in a foreign country, that is to say, the Confederate States of America, against the form of the statute in that case made and provided. The forty-third count, that the said Peter S. Corbett, on the 19th of October, A. D. 1864, in a certain place subject to her Majesty, to wit, on board a British ship on the high seas, unlawfully and willfully did attempt and endeavor to procure one John Ellison, without the leave or license of her Majesty for that purpose first had and obtained, to enter and engage to enlist and serve as a sailor in sea service in and on board a ship or vessel intended to be used for warlike purposes, in the service of and for, under, and in aid of a certain foreign power, that is to say, a foreign power commonly called the Confederate States of America, against the form of the statute in that case made and provided. The forty-sixth count same as forty-third, except ending, which same as fortieth count. The forty-ninth count same as forty-third, except "to serve and be employed as a sailor," &c. The fifty-second count same as forty-ninth, except ending, which same as fortieth. And the remaining counts still further varied the charge.

The defendant pleaded "not guilty."

The solicitor general, Mr. Giffard, Q. C., and Mr. Hannen, appeared for the Crown; Mr. E. James, Q. C., Mr. Milward, Q. C., Mr. Sleigh, Mr. Kemplay, and Mr. Witt for the defendant.

The solicitor general, in opening the case, said: This is a prosecution for a breach of the foreign enlistment act, and without now referring in detail to its provisions it may be enough for me to describe it in the words of its title, as "An act to prevent the enlisting or engagement of her Majesty's subjects to serve in foreign service, and the fitting out or equipping in her Majesty's dominions vessels for warlike purposes without her Majesty's license." That is, the act was passed for the purpose of better enabling us to preserve our neutrality between foreign belligerents, and to prevent our being embroiled in foreign wars with which we had no concern. The learned solicitor general then proceeded to state the circumstances out of which the present charge had arisen. On the 8th of October, 1864, he said, a vessel left London called the *Sea King*, but the name of which was subsequently changed to *Shenandoah*, a name which has since become but too well known. She was a screw steamer, clipper built, and was built at Glasgow in 1863. She was 790 tons register, and had made but one voyage previously, and that was to China. Her registered owners then were Messrs. Wallace & Co. At the time she sailed from London last October her registered owner was a Mr. Richard Wright. On the 7th of October there is an entry on the register empowering P. S. Corbett, the captain and present defendant, to sell the ship at any port out of the United Kingdom, for not less than £40,000. The voyage was nominally to Bombay, and the crew were engaged for that voyage. The captain engaged some of them himself, and when engaging them asked this significant question, "Whether they were single men?" The ship's cargo professed to be coals and provisions. On the 8th of October she sailed for Madeira, where she joined another vessel, and they sailed together to a rocky island near, called the *Desertas*. That other vessel was the *Laurel*, from Liverpool, and was laden with arms and ammunition, which were transferred to the *Sea King*, which vessel was next morning completely armed. Some persons came on board from the *Laurel*, describing themselves as confederate officers, and one was Captain Waddel, who proceeded to take charge of the *Sea King*, and altered her name to the *Shenandoah*. Captain Corbett called the men aft and told them that he had sold the ship, that she would be a confederate cruiser, and that they would do well to enlist, and then told Waddel, "I got as many single men as I could." The men were then offered £7 a month and £14 bounty. A few enlisted, but most of them refused. Captain Corbett then took the rest with him on board the *Laurel* to Tenerife, and then asked them to say they were wrecked men, to account for their appearance on board the *Laurel*. The consul, however, arrested Corbett and sent him to England. After thus stating the facts of the case, the learned solicitor general proceeded to say that the indictment contained a number of counts, stating the charge in different ways, for the purpose of meeting every form of legal objection which may be made on the part of the defendant. He is charged in some of the counts with having committed an offense in this country by inciting men to enlist in England in the confederate service; and upon these counts, if you should think that he enlisted men in this country, ostensibly for a voyage, say to Bombay, but really for the purpose of putting a pressure upon them when they might be on the high seas to enter the confederate service, then (under the correction of his lordship) the offense would have been committed in this country. This is the same point, indeed, which was so ruled by his lordship at the Liverpool assizes, in the case of "*The Queen vs. Hyat and another*," (reported in 3

Foster and Finlason's Reports;) and, assuming that you should be satisfied that he was aware of the ultimate destination of the vessel, he would, under such circumstances, according to that ruling, be guilty of the offense which is charged in these counts of the indictment. But, further, the defendant is charged in another set of counts with having committed an offense against the act, by enlisting men upon the high seas for the confederate service; and if you should believe upon the evidence that he endeavored to induce any of the men to enlist in the confederate service, on board the Sea King, which at that time was a British vessel, although intended to be used in the confederate service, then he would be guilty of a common law offense of inciting men to commit a breach of an act of Parliament—i. e., of the foreign enlistment act—on the high seas, by enlisting in a vessel which (according to the words of the act) was intended to be used for warlike purposes in the service of a foreign belligerent. In another set of counts the defendant is charged with having committed the offense in a "place subject to her Majesty," (according to the words of the act,) on board a British vessel; and to this set of counts similar observations would apply. Having thus stated the circumstances of the case, and the law applicable to it, the learned solicitor general concluded his address in these terms: The case, gentlemen, is one of great importance. It is of importance to the prisoner, who is very ably defended, and who, of course, you will not convict unless the offense is satisfactorily established. It is of importance, on the other hand, to the public; for it deeply concerns us all that the Queen's subjects should not be permitted to engage in foreign wars without her consent, a practice which, if permitted, would be alike derogatory to the dignity and injurious to the prerogative of the Crown, and, in the words of the act, "dangerous to the peace and tranquillity of the country." The facts of the case having been thus stated, the learned counsel for the Crown proceeded to call evidence.

The first witness called was the first man mentioned in the indictment, the man Ellison, who said that he was an able-bodied seaman; that in October last he went to Green's Home to sign articles for the Sea King. He saw the defendant there and signed as quartermaster. He was to have £3 a month, and went on board on October 8, 1864. The Sea King was then alongside the dummy at Blackwall. They started on the 8th, and got off Madeira in seven or eight days, and then sighted a vessel which turned out to be the Laurel. They signaled her, and then went to an island called the Desertas, to which the Laurel followed them. When within speaking distance of the Laurel the men of the Sea King were ordered to receive purchases to the main yard-arm to hoist in goods, strong enough to carry three tons. A number of cases were then unloaded from the Laurel into the Sea King. They were very heavy, and some of them broke with the rolling of the vessel, and he saw that they contained shot, shell, small-arms, and ship's guns. The witness swore that when the vessel was off Madeira a gentleman in gray came on board, and that the defendant, standing by the side of him, said, "I have sold the ship; any of you who wish to join, the captain will give good wages and bounty," and that the other gentleman, "the gentleman in gray," said that he had taken charge of the ship as a privateer for the confederate government, and that he would give the wages Captain Corbett had stated. The witness stated that the defendant spoke to him and Allen—both of whom were naval reserve men—to induce them to join, but they declined, and came home in the Laurel. Three or four, however, remained in the Sea King.

The witness was severely cross-examined by Mr. James, and it was elicited that he had been convicted of some trifling offense, and sentenced to a month's imprisonment. It was also elicited that he had for some time past done no work, and was staying in Ratcliffe, receiving 25s. a week, as he believed, from the Crown.

The solicitor general avowed that in this, as in other similar cases, the Crown had paid the wages of seamen who were asked to remain in this country as witnesses, because otherwise they could not be expected to remain.

Mr. James said he did not make any imputation on that ground.

In further cross-examination of the witness it was elicited that he had had a quarrel with the defendant at Tenerife, and he could not give the names of the men who had remained. It was further elicited that when examined at Tenerife he said that Allen told him that the defendant had said what he now stated he himself had heard him say, and he now professed to forget what he had told the consul.

The next witness was the man Allen, who also was a royal naval reserve man. He confirmed Ellison's evidence as to the engagement at Blackwall, and as to what took place up to the time the ship got to Madeira, where, he said, the captain "dodged about" a good deal at night. Next morning they saw the vessel called the Laurel at anchor, and they signaled her and stood off to her. The Laurel then came out, and the Sea King followed her, until they came to a little island called the Desert Island—a bare rock, where they both came to anchor; the captain of the Laurel came on board, and heavy cases were slung on board from the Laurel, which, becoming accidentally opened, were found to contain guns. There were also, he said, barrels of gunpowder, and casks or cases which burst, and disclosed shot and shell. This went on all night, and the defendant was "as busy as any one else" in getting these things in. The loading was

not completed until next morning, when the "hands" were "piped aft," and Captain Corbett was heard to say, "Well, men, I've sold the ship. This is the gentleman who has got the command of her, (pointing to the 'gentleman in gray,') and if you like to join her you'll be very well paid for it." The "gentleman in gray" said he would give £10 bounty, and £7 to £10 a month wages. The men, however, refused. Another effort was afterward made by the gentleman in gray to induce the witness to enlist, but the witness said he refused to join. The gentleman in gray said he would give better wages than could be got in the English fleet, and would give him as much as £14 a month to go as gunner's mate; but the witness refused. Shortly afterward, he said, Captain Corbett came up to him and took him into the cabin, and said it was a very good offer, and they had better take it. At the time of this conversation the other men were standing round the cabin door, which was open, and Ellison, among others, was there. Finally, however, the witness and most of the other men refused the offer and left with the defendant in the *Laurel*. Until they left *Madeira* the English flag was flying, but then it was struck, and when they left there was another flag, white, with a blue cross and "a lot of stars." Nothing which appeared to be material was elicited from this witness in cross-examination, and his evidence did not seem to be shaken in any way.

Nurus, another of the men named in the indictment, was next called, and confirmed the above evidence. He said that after the defendant saw the *Laurel* he gave orders to have the "purchases" made ready to raise weights, and then the hoisting of arms on board took place as described by the other witnesses. The witness further stated that the defendant had said, in the presence of the men, that he had "sold the ship to the confederate government," and he then (the witness said) introduced the American officer, (that is "the gentlemen in gray" alluded to by the other witnesses,) who would say what wages would be given. The American officer said the name was to be the *Shenandoah*. After they left, the vessel hoisted a white flag, with blue cross and several stars upon it. Being shown a representation of a flag, he said that was the flag, and he believed it to be the confederate flag. The "gentleman in gray"—the American gentleman—went away with the *Sea King*.

It was elicited from this witness that Captain Corbett had to put some of them into the charge of the police for disorderly conduct at *Teneriffe*. The "gentleman in gray" was near the defendant when he spoke and said the ship was not going to fight, but to cruise against merchantmen, like the *Alabama*, and that the men would "make a good thing of it if they would go." It was the American gentleman who kept making offers of money and increasing the offers until he offered £16 bounty and £7 10s. a month wages. The witness said that just before he left the *Sea King* he saw inside the cabin a "bucket full of gold." This was at the time the "American officer" was tempting the men to go into his service. He was quite confident that the defendant said out loud that he "had sold the ship to the confederate government."

In cross-examination it was elicited from the witness that he had been taken to the American consul's at *Liverpool*, and a great many questions were asked as to what then took place, and it appeared that he had been asked what he saw and heard on board the *Sea King*, and that he told what he knew, and made a deposition before Mr. Raffles, the magistrate.

A man named Sell gave similar evidence, stating that the defendant told the "gentleman in gray," at *Desertas Island*, that he had obtained as many single men as he could; and that the defendant then advised the men to join the American privateer, saying that it would be a good thing for them, and that the vessel was not going to fight, but to take prizes, as the *Alabama* had done.

This witness, in cross-examination, said he had seen the bucket of gold on board, and that the American captain, or "the gentleman in gray," advised the men to join, saying that the vessel was not going to fight, but to cruise and take prizes, as the *Alabama* had done. The defendant, the witness said, repeated what the American captain said, and said, "You hear what the captain says."

A man named Webster, a fireman, gave similar evidence, stating that the defendant said, "I sway (i. e., persuade) you men to go in the ship; it is a good thing for you;" and he pointed out the "gentleman in gray" as the captain. When the defendant got to *Teneriffe* with the *Laurel*, (the witness said,) he told the men to say they were shipwrecked seamen being taken home.

In cross-examination this witness, as well as the last, said that what the defendant said was that he had sold the vessel, and that those who did not like to join must go back with him in the *Laurel*.

THE LORD CHIEF JUSTICE. Did he say that all at once or at different times?

WITNESS. No; he didn't say it all at once, but he said it at different times.

In further cross-examination, however, it was elicited that the witness had said before the magistrates that the defendant had said it all at the same time, though not in the same breath; and the witness, being further pressed, said that the defendant said it all while the men were in a group and before he left the group of men, as they were standing together; the case, as suggested for the prosecution, being that the defendant first

tried to get the men to enlist, and then afterward, finding that they would not, said that if they would not they must go back with him in the *Laurel*.

This witness, as well as the last, stated that the "gentleman in gray" said that "he should not fight unless driven into a corner," as he was going to cruise for prizes.

This witness, like the others, was pressed a good deal about offering evidence to the police and applying for subsistence money, but it all appeared to come to no more than this—which the solicitor general had already avowed—that the Crown had allowed the seamen subsistence money to retain them in this country for the purpose of securing their evidence at the trial.

The next witness was Benjamin Sell, the boatswain, who had piped "all hands aft" on board the *Sea King*, to hear what the defendant had to say. When he had got the "hands" together the defendant came and stood by the "gentleman in gray," to whom this witness for the first time gave the name of Captain Waddell, and then the defendant said, "Well, men, I've sold the ship, and those who like to join her may, and those who don't may go back with me in the *Laurel*." "I," said the witness "made answer, 'That won't do for me; the flag is the wrong flag; the old flag for me,' and with that," said he, "I went to get my box, as I wanted to be off, for they were a very vicious lot, the men who came on board, and I didn't like the looks of them." (Laughter.)

This man was pressed a good deal in cross-examination as to something suggested to have passed between him and one Hensman as to something that was to be got, as it was suggested, for giving testimony; but as there appeared great obscurity as to what it was, and the witness wanted to explain what it was, the jury said they desired to hear him tell his own story about it, and the witness then said that he and the other men wanted to know what it was they were to have for having been taken to Madeira on an abortive voyage, and the answer not being, as he thought, satisfactory, he got angry and said it was all a "—— catch," and a "lot of lies." He was pressed a good deal with a view to show that this meant that the statement the witnesses had made was "a lot of lies," but he said that this alluded to a supposed promise of two years' pay. He was pressed very strongly about this, but with every appearance of truthfulness adhered to his story. Being asked in re-examination, on the part of the Crown, what had passed between him and Hensman, and what Hensman wanted with him, he said that Hensman seemed a "sort of loafer," and wanted to know what he had to say, and used soft language to him, and told him that he (Hensman) had been on Captain Corbett's side, &c.

It was then proved that the flag which had been spoken of was the confederate flag.

This closed the case for the Crown.

Mr. James, on the part of the defendant, demanded to know upon what counts the Crown intended to rely, as the indictment was so long and the counts so numerous.

The solicitor general said he had distinctly stated in his opening. Some of the counts charged that the defendant in this country incited certain persons (Ellison, Allen, &c.) to enlist in the confederate service, and he relied upon these. There was another set of counts, charging the offense to have been committed on the high seas, and he mainly relied upon these. There was another set of counts, charging the offense to have been committed in a certain place abroad, i. e., a British vessel.

The LORD CHIEF JUSTICE. As to that set of counts there is this difficulty, that the vessel appears not to have been a British vessel, but a confederate vessel.

The solicitor general said he thought the character of the vessel had not been changed at the time these attempts were made, for the confederate flag had not been hoisted.

The LORD CHIEF JUSTICE. But it can hardly be doubted what her real character was. However, probably it would be equally an offense whether on board a British vessel or not. Perhaps, (continued the lord chief justice,) the counsel on both sides may be relieved from discussing the questions of law, for I shall pursue in this case the same course as was pursued in the case referred to—"The Queen *vs.* Hyat and Jones"—that is, I shall ask the jury whether, in point of fact, the defendant did attempt to enlist or procure the men to enlist; and if so, then all questions of law will be reserved, whether as to the place where the acts were committed, or otherwise.

The solicitor general said it would be a common-law offense to incite the parties to enlist, and thus to contravene a statute.

Mr. James said that was true if the men were British subjects and the men actually enlisted; but these men had not enlisted; they had refused.

The solicitor general said he quite dissented from this view of the law, and contended that if the act of incitement or the attempt to enlist was committed, then it was an offense.

Mr. JAMES. A statutable offense, but not a common-law offense. The first thirty-six counts are at common law.

The solicitor general again dissented from his learned friend's view of the law.

The lord chief justice said he did not think it necessary to discuss the law further, because he should reserve the questions of law. The question now was as to the facts.

Mr. James desired to postpone till to-day his address to the jury.

The case was then adjourned.

[From the London Daily News, December 1, 1865.]

COURT OF QUEEN'S BENCH, *Westminster*, November 30.

Sittings at nisi prius before the lord chief justice and a special jury.

The Queen vs. Corbett.

The further hearing of this case, which was an indictment against Captain Corbett for a breach of the foreign enlistment act, by inciting persons to engage into the confederate service, was resumed this morning.

The solicitor general, Mr. Giffard, Q. C., and Mr. Hannan, appeared on behalf of the Crown; Mr. Edward James, Q. C., Mr. Millward, Q. C., Mr. Kempley, Mr. Sleigh, and Mr. Witt, appeared for the defendant.

The solicitor general asked his lordship to amend the 55th count in the indictment, which alleged the procuring to enlist certain persons to the jurors unknown. His learned friend extracted yesterday, in cross-examination of one of the witnesses, that the name of one man (John Martin) who remained in the ship was known to him, and therefore he (the solicitor general) asked his lordship to amend the count by inserting the name of John Martin and other persons to the jurors unknown. The names of the men were unknown to the Crown when the indictment was framed.

The lord chief justice doubted if he had power to do so.

Mr. James said he thought not. The Crown might have known it if they had examined their witnesses on that point.

The lord chief justice said the information came out in the cross-examination, but he did not know that the amendment was required. There were two of the men whose names were unknown, and so far as they were concerned the count would stand good. It would be time to consider the application when the case had proceeded further.

Mr. James then addressed the jury for the defense. He said he fully concurred in the remarks of the solicitor general, of the importance of the indictment, and that the laws of this country should be vindicated by the executive government, both with regard to their violation by the citizens among themselves and more especially in a matter which the laws provide for the peace and welfare of this country with respect to foreign nations. And it was a matter of the last importance to the defendant that he should not by any assumption, presumption, or fancy, be made responsible for an act unless the circumstances were brought clearly and distinctly within the provisions of the law, whether it was an offense against the statute or common law of the land. They had all heard very much within the last four years of the foreign enlistment act, the provisions of which were for the purpose of enabling the government of this country faithfully to fulfill all the duties of a neutral state with regard to any nation with which this country was at peace, but who might unfortunately be at war between themselves. The act had reference to a variety of things, and among other things it provided that no vessel of war should be equipped by subjects of this country in order that it might take part in warlike operations prevailing between two foreign nations. It provides likewise for the prevention of the enlistment of the subjects of this country (which was indeed its primary object) without the license of the Crown into the service of either of the belligerents. Now, it was of the greatest importance that their minds should be kept perfectly clear from confusing together these classes of offenses, which were of themselves entirely distinct. It was one thing to be engaged in a ship like the *Shenandoah* to prey on the merchant service, and another and a distinct offense for a man to be engaged in endeavoring to procure seamen for either of the belligerents. He did not say that the solicitor general knowingly or willingly mixed up the two cases, but a great deal of the evidence which had been given might be referred to possibly for the purpose of creating a prejudice against the defendant, and of asking them to suppose that because the defendant might have been aware of one circumstance, it was, therefore, very likely that he was guilty of another offense within the act of Parliament, and therefore he would see that he had good reason for asking them to keep the two offenses distinct from each other. Here was the *Sea King*, which his learned friend had said was a vessel probably destined by some one to leave the shores of this country to enter into the confederate service, and that she ultimately did so was so clear that it would be ridiculous in him to attempt to deny it. But who did it? Who were the means of sending the vessel from this country for the purpose of entering into the confederate service was a very different thing. The defendant was not charged with doing that, and one thing must be perfectly manifest to every one, that it was the duty of the executive government, if the defendant had been concerned in an illegal act with respect to the equipment of this vessel for warlike purposes, to have indicted him for it and not for engaging or endeavoring to engage men for the confederate service. He used it for this reason. It must have been manifest to those who had the charge of this prosecution, that there could not be a pretense for saying that the defendant when he left this country was cognizant of the circumstances with reference to the ship, for they would have indicted him for it as a partaker in the ille-

gality if it were an illegality. According to the evidence this vessel had made a voyage under another captain to China and the East, and returned to this country in September, 1864, when she changed hands, whereupon the new owner appointed the defendant as her commander. Now he did not think he was asking anything unreasonable when he asked them to suppose that if the owner of the ship in October intended that the Sea King should be handed over to any one on behalf of the Confederate States, in all probability he would have kept a secret from the person he employed in the transaction. All that he required was to have the captain and crew for the purpose of taking the vessel away, and studiously prevented their being acquainted with the nature of the transaction lest the knowledge which he wished to keep secret might be disclosed, and thereby the end he had in view frustrated. The difficulty on the part of the defendant was, that he could not be called to give his account of the transaction on oath, and to state to them that he knew nothing before he left this country as to what was to be the destination of the vessel; and that being so, it was impossible that he could call any one else who could show that he was ignorant of all the circumstances. Was it not, therefore, of the very last importance under the circumstances, that they should not assume anything without the strongest grounds against a person whose mouth was closed like that of the defendant? That he was to hand over the ship to some other person on a given state of things, was clear, because the ship's register had been put in evidence. It appeared that on board the Sea King was a young man whom he would call the purser, but who had, as the evidence had shown, a good deal to do with the matter. He was not simply a stranger or a passenger, and he was not asking them to presume anything improbable when he called their attention to the fact that this young man took the daily observations, and when the ship was transferred he took a very active part in urging the crew to transfer their services from the Sea King to the Shenandoah, so that it was not unlikely that that person would have more knowledge of the subject and be trusted more with the matters to be disposed of than the defendant. It also appeared that upon their sighting Madeira, upon certain signals passing between the Sea King and the Laurel, they proceeded to the Desertas Islands, belonging to the Portuguese government, and with which this country had nothing to do. It was said that on coming to anchor there, the captain of the Laurel came on board, and presently afterward the Laurel drew alongside, and immediately on that Captain Waddell, the gentleman in gray, came on board and went on the bridge of the Sea King to the defendant, with whom he held a long conversation, the result of which was that the vessel was transferred to Captain Waddell, and the transaction was duly entered in the official log which was deposited with the Board of Trade. The defendant performed his duty in selling the ship, and having discharged that duty he had nothing more to do with her. It was said by the Crown that after the sale of the ship the defendant encouraged the seamen and persuaded them to enlist into the confederate service. There was no doubt that ammunition, stores, and matters of that kind were placed on board the ship from the Laurel, but he thought it would be plain to them all when they had the whole of their evidence before them, that nothing was done with regard to the transhipment of the stores until Captain Waddell and the defendant had come to an arrangement about the purchase of the ship. The transhipment of the stores, &c., occupied a part of the night of the 18th October and the morning of the 19th, and after that the boatswain was directed and did pipe all hands up, and then they came to the point of time when it was said that the defendant transgressed the law, for it was said that he then endeavored to persuade and induce the men belonging to the Sea King to enter into the service of the Confederate States. It was a question for them, what amounted to persuading and enticing the men? Supposing that the defendant had discharged the duty intrusted to him; was his simply saying he had sold the ship—I have nothing more to do with her; you may remain in her if you like to come with me on board the Laurel—could it be said when men are allowed to exercise their discretion and judgment they were being persuaded and enticed to enter into the confederate service? The defendant was in this position. It was true with regard to the men that their contracts had been broken by him, and the courts of this country would give them compensation. Was what the defendant had done or said to the men more than that? The learned counsel then referred to the evidence on the part of the prosecution, which he characterized as untrustworthy, and the statements of disappointed men who had a grievance against the defendant. That was not the place to inquire into the conduct of the executive government, but unless he was much mistaken he believed the people of this country were satisfied that the executive government had done everything to preserve the neutrality of this country. They had instituted other proceedings, but their failure or success depended upon the juries who had tried the cases, and on the government. They had, therefore, done their duty in bringing these matters before the courts of law. They had in this case, as in the others, obtained the able assistance of the law officers of the Crown, and they had framed an indictment nearly sixty counts long, in which they had laid the offense in every way, in order, as the solicitor general said, to avoid any objections being taken, and not in order to succeed.

He was struck with the remark that it was to meet every legal objection, and he likewise admitted that they had attempted it. The learned counsel then proceeded to observe that the act of Parliament had reference only to the territorial dominions of the Queen, and not to the high seas, and in order to make the former words apply, it was sought to make a British ship come within the provisions of the act. In that case the time of the transfer of the ship would be of great importance.

The lord chief justice said he intended to leave to the jury whether the ship at the time belonged to a British subject or had been made over to the confederates, and upon their finding he would give leave to move.

The learned counsel then referred to other circumstances in connection with the case, and observed it was a matter for them to consider whether the men were not urged and enticed by the confederate officer and the display of gold rather than by the defendant. He called the following evidence:

CHARLES EASMAN sworn: I was second mate of the *Sea King* when I sailed in her on her first voyage. I was first mate on her when she was sold to the confederates. Mr. R. Wright was her owner. She was to go to Bombay, and nothing was said as to her ultimate destination. She took in eight hundred and fifty tons of coals. It was an ordinary cargo, and coals at that time paid the best freight. She had forty-five hands the first voyage and forty-seven the second. I am a married man. All the officers and most of the crew were married men. We had a signal flying when we passed the harbor of Madeira, and the *Laurel* came out and signaled us. She passed us and we followed her. About an hour after we left in company with the *Laurel*. I was informed for the first time by the purser that it was expected that the vessel would be joined by another. Before we anchored off the *Desertas*, Captain Ramsay, of the *Laurel*, came on board the *Sea King*, and the defendant asked him where he could anchor, and Captain Ramsay pointed to him further in near shore. Captain Ramsay went back to his ship, and then the *Laurel* was brought alongside and Captain Waddell came on board the *Sea King* in plain clothes. He went and spoke to the defendant on the bridge, and then went into the saloon and remained there about a quarter of an hour. After that the defendant came to me and told me that he left London with a power of attorney to sell the ship within six months, and that he had found a market for her and had sold her, and that he would take us all home and pay us off before the shipping master. He directed me to inform the crew of it, and to get them to assist in getting the "luggage" out of the *Laurel*. I went to the forecabin and told the crew of it.

The lord chief justice said this witness was not cross-examined yesterday.

Witness continued: At that time the men were at dinner, and the men had come from the *Laurel* and commenced getting up the tackle. I made an entry at the time in the ship's log, and afterward one in the official log, because the captain's hand was bad. Under date of October 18, 2.30 p. m., I entered, "*Sea King* sold this day to Captain Waddell, and handed over to her present master." I told the men the sooner the "luggage" was got on board, the sooner we should be able to get on board the *Laurel* and get home. We worked until midnight, and commenced again at seven o'clock, and finished at 9 o'clock the following morning. The defendant that morning told me to get the men to pack up their things and get on board the steamer. The men seemed reluctant to leave the ship until they had had an explanation from Captain Corbett. By his directions I called the men to him, and he told them that he had sold the ship and would take them home in the steamer alongside, and pay them off before a shipping master. Some of the men wanted three months' pay down on the capstan. Defendant said he had no money then, but he would take them home and they should be paid all they were entitled to. Captain Waddell was in the cabin whilst defendant was speaking to the men; he came out, buttoning up his grey coat, and said, "Now, men, will you give me your attention for a moment?" He drew a paper out of his pocket, unfolded it, and said, "I have bought this ship, and hold in my hand a commission as lieutenant in the confederate service, and I will read it to you if you like to hear it. I am going to put this ship in commission for fifteen months as a vessel in the Confederate States navy. I am in want of men, and if any of you will stay with me instead of going home with Captain Corbett, I will give you double the wages you are now receiving from him." There was an uproar among the crew, and they reproached the defendant for having brought them out under false pretenses. Defendant endeavored to pacify them, and again told them that he would take them home and pay them off before a shipping agent. He said, "If you won't go when you are told, you will follow me," and he went toward the gangway to go to the *Laurel*, where he spoke to some of the men. Captain Waddell was also in conversation with some of the men in the saloon. He said they need not be frightened about life or limb, as he did not intend to lose his ship as the *Alabama* was lost; that he was only going to cruise against the commerce of the United States, and that he did not intend to fight unless he got into a corner, and then they would have to fight their way out. He offered £5 a month and £10 bounty. The *Sea King* did not change her purser when she changed hands. Five men remained in the ship. When I told the defendant some of the men wished to remain in the ship, he said

they could not do that unless they gave him a release. They were accordingly given. Defendant said nothing to induce the men to remain on board the Sea King. (The witness positively denied most of the statements made by the witnesses for the prosecution.) I did not see a bucket of sovereigns in the cabin. I told defendant that one of the American officers had induced me to stay, and he replied, "Don't you think of it; go home, along with me." After we had got the Laurel under way, the Shenandoah signaled for a boat, which was sent to her, and after waiting an hour, the Laurel signaled, "What is the matter?" and the Shenandoah signaled, "Wait for dispatches." When the boat came back it was found that two of the Laurel's men had joined the Shenandoah. The second engineer of the Shenandoah came on board and wished M'Arland, the second engineer of the Sea King, to join the former, but the defendant would not interfere in the matter. We were only one day in quarantine off Teneriffe. When the recruiting officer came alongside the Laurel, Captain Ramsay said he had a shipwrecked crew on board, and Captain Corbett said he was from London for Bombay. At Teneriffe there was a great row among the men, and I had to call the military and the police to quell the riot. The men were having a general fight, and one of them drew a knife. The witness then affirmed the truth of the conversation he had with Snell, though denied by the latter in his cross-examination yesterday.

Cross-examined by the solicitor general: Mr. Wright, the owner of the Sea King, is a Liverpool merchant. I assisted to run up the signal about 7 o'clock in the morning, but I cannot say who gave the order. I had no knowledge whatever that the Sea King was to be handed over to the confederates. I told the boatswain that I did not think the defendant had any more knowledge than I had of her ultimate destination. I never said that I had the defendant and the owners under my thumb, and that if they did not pay me I would open the budget. It is an impudent falsehood. I did not tell Sell that I had received £300 to remain on the side of the owners. I did not tell him that I expected to get something from the owners. (The witness was cross-examined as to certain conversations he was alleged to have had with parties, but he denied them.) The purser's name was Forrester, and I judged from his accent that he was an American. I thought it was suspicious to find a market for the ship on the high seas, but I made no remark to the defendant about it. I then became suspicious, but I did not like to ask questions. Mr. Forrester signed the ship's articles on the transfer, and also my release.

The SOLICITOR GENERAL. I refer to this because the name of Forrester does not appear on the articles in this country.

Cross-examination continued: I will not swear that the defendant was standing by when Captain Waddell offered the men double wages. The purser had money on the cabin table. The transfer is entered on the book at ten a. m. I don't know that the defendant was sent home by the consul in custody. I did not explain the real state of the case to any one in Teneriffe.

Re-examined: I believe the defendant to be a dupe in this matter.

JOHN ELLIOTT, chief engineer, gave similar evidence, and in his cross-examination he said he had no more idea than the man in the moon, when he left England, what was to be the ultimate destination of the ship. (Laughter.)

The SOLICITOR GENERAL. It is occasionally said that the man in the moon knows a great deal.

Witness continued: I did not tell the fireman it would be a good thing for them if they remained on board the ship. I frequently conversed and played cards with Forrester, but he said nothing to me about the destination of the ship.

JOHN SUTTON, the steward, testified: I never heard the defendant say anything to induce the men to stay in the ship. I asked the defendant his advice; I had been offered by Captain Waddell £14 or £16 a month, as I knew all about stores, and I went to the defendant and said, "Captain, I want your advice." I told him the offer that had been made to me, and he replied, "Well, Steward, please yourself. I won't try to induce you one way or the other." The defendant afterward refused to let some of the men leave the Laurel. If there had been a bucketful of sovereigns in the cabin I must have seen it, and in bringing out our luggage we must have tumbled over it. (Laughter.)

Cross-examined: I saw a bag of money taken out of the safe and some of it placed on the table. I should think the bag contained one hundred sovereigns. I was the last man to go on board the Laurel. I was under the purser. He did not give me any orders, but he asked me questions. I joined the ship on the understanding that she was really going to Bombay. When the defendant told me he had sold the ship I did not know she was to be a confederate ship. The first time I knew was when the "luggage" was being taken out of the Laurel. The purser came on board the night before the ship left Thames.

HENRY ALLCOTT, native of Charleston, testified: I served on board the Alabama. After I was picked up at Cherbourg I went to Liverpool. I embarked on board the Laurel about the 8th or 9th of October, and sailed from Liverpool. On the 18th we sighted the Sea King, and I went on board of her that day. My passage was taken in

the Laurel for Nassau. On the 19th the hands were piped on deck. I was standing by the defendant's side and he said to them "Men, when we left London we signed for a voyage to Bombay, but I held a bill of sale or power of attorney to sell the ship when and where I could get my price. I have sold the ship, (pointing to Captain Waddell.) Her voyage is broken, and if you men will sign, clear of me, I will give you three months' pay in addition to the month you have had in London. If not, there was a passage provided for them in the steamer alongside." One man appeared very mutinous. He wanted his money down on the capstan, and then he would join the ship, and fight like ——. It was Ellison who said it. Captain Waddell then stepped forward and said, "Men, you are doubtless aware that the northern and southern States are at war. I hold a commission from the president of the southern States as a lieutenant commander. I have bought this ship, and I intend to commission from 15 to 18 months, and I am prepared to offer you two months' pay in advance, and £15 bounty." The men asked him what he was going to do, and he replied, "cruise against the federal commerce, sink, burn, and destroy." He told them he was not going to fight, but that if he got into a corner they might depend he would fight his way out. The men refused to go in the ship. I did not hear the defendant say anything to induce the men to join the ship, on my honor. I remained in the ship.

Cross-examined: I shipped for Nassau.

The SOLICITOR GENERAL. How was it you found yourself at Madeira?

WITNESS. That was secrecy on the part of our commodore, Barrow. I did not know until we sighted Madeira on the morning, that we were going there. I did not know that the Laurel had a cargo of ammunition and arms. She had twenty-three or twenty-four officers on board, who went from the Laurel to the Shenandoah. All I know was that we were to run the blockade, and she subsequently did so. I did not know until about ten minutes before we got alongside the Sea King that I was to report myself to Captain Waddell for duty. We all went on board in private clothes—the uniforms were in the trunks on board the Laurel. They had been made in London and Paris. They were conveyed in boxes from the Laurel to the Sea King. I know Mr. Forrester by the name of Wittle. I had seen him in Paris, where he was acting for the Confederate States. He was first lieutenant and executive officer on board the Shenandoah. I was in the Shenandoah during the whole of her career, and came back in her to Liverpool. Captain Bullock, of Liverpool, was captain in the confederate service. It was his order that was handed to me on board the Laurel to report myself to Captain Waddell on board the Shenandoah.

William Crawford, formerly gunner's mate on board the Alabama, and who was with the Shenandoah during her career, gave similar evidence. Captain Waddell said that Captain Corbett had not to thank him, for if he should have had more of the men, if not the whole of them, if he had treated the men better. The defendant said nothing to induce the men to join the Shenandoah.

John Griffiths, another of the Alabama men, gave similar evidence. He did not hear the defendant say anything about pay or bounty, or that the ship was not to fight. It was Captain Waddell who said that.

David Marshall, a citizen of the southern States, shipped at Liverpool in the Laurel for Nassau. He had no idea he was to meet the Sea King at Madeira. He also gave corroborative evidence.

In cross-examination he said he was first-class fireman on board the Shenandoah. He had not had very exciting times; it was pretty quiet below. (Laughter.) There might have been some things said that he did not hear, and some things that he had forgotten. There was some confusion, but not much, on the deck at the time. All the "luggage" had been brought on board. He was first spoken to about a week since to give his evidence on this trial. In February last, in Melbourne, he read defendant's examination at the police station, and then the circumstances came to his mind. Captain Corbett asked him if he recollected anything about it, and he said he did. He did not tell him so much as he had stated to-day in his evidence.

Thomas Hall, a genuine American, said he believed he was one on board the Laurel, and he believed he was one of the individuals who pulled an oar in the boat from the Laurel to the Sea King. (His demeanor and accent in the witness box caused much amusement in court.) He was one of the crew of the Shenandoah, and also corroborated the other witnesses for the defense.

Mr. John R. Brown, steward of the Sea King, said when she left London I did not see anything out of the usual course in the ship's stores to lead me to suppose she was going anywhere else than the East Indies.

Cross-examined: Steamers often take cargoes of coal to the East Indies. She had nearly as many coals on board as she could carry. It is not an unusual thing to send a power of sale with ships going on a long voyage.

This was the case for the defendant.

The lord chief justice was about to adjourn the court, when the jury said they were pretty nearly agreed.

The lord chief justice said there was a conflict of evidence upon which the learned

counsel might wish to address them. It might be that the witnesses for the Crown had made a mistake, and put into the defendant's mouth language used by Captain Waddell. The case was one of importance, and perhaps they had better hear the learned counsel before they made up their minds upon the evidence.

The jury said they were desirous of giving the case the fullest consideration. They were all of one opinion. One jurymen said it was a waste of time to go on further with the case.

The solicitor general said he should certainly like to address the jury on the case^o before they delivered their verdict.

The further hearing of the case was then adjourned.

[From the London Daily News, December 2, 1865.]

COURT OF QUEEN'S BENCH, *Westminster, December 1.*

Sitting at nisi prius, before the lord chief justice and a special jury.

The Queen vs. Corbett.

The further hearing of this case, which was an indictment against Captain Corbett under the foreign enlistment act, for persuading and enticing English subjects to enlist in the confederate service, was resumed this morning.

The solicitor general, Mr. Giffard, Q. C., and Mr. Hannen appeared for the Crown; Mr. Edward James, Q. C., Mr. Milward, Q. C., Mr. Kempley, Mr. Sleigh, and Mr. Witt appeared for the defendant.

The witnesses for the Crown were this morning recalled, and denied that Easman, the chief mate, told them on the 18th that the vessel was sold. That was the day they got to the deserters. They did not dine that day in the fore-castle. The only witness who dined in the fore-castle was John Hurcrist, and he said he did not hear the chief mate say that the vessel had been sold.

John Clarke, inspector of the Thames police, said: I saw Easman at the Wapping station. He came there and asked for me. He said the owners had discharged him without a farthing, and that he had gone to the Thames police court to get compensation. He also said the owners had thrown him destitute on the world, and he asked me if he could go to the treasury and give his evidence, and I replied that he could go if he liked.

Cross-examined: I arrested Captain Corbett, and I have had charge of the case. I have probably seen the witnesses on many occasions. I have seen the witnesses fifty or sixty times as they were going to work. I will not swear that I have not spoken to them about the case.

Mr. Edward James said that, as the jury intimated yesterday that their minds were made up, he had no wish to address them in summing up the case if their opinion was what he inferred from what they said on that occasion.

The jury said they wished the case to go on.

Mr. Edward James then said that if the case was not made out to their satisfaction it was their duty to say so without hesitation, and acquit the defendant. He ought not to be convicted unless upon the clearest and most distinct evidence, and he asked them whether the defendant had used those expressions alleged by the Crown to induce the men to join the Shenandoah. That he made use of some words was beyond all question. The defendant was not called upon to prove negatively that the words were not used, but for the Crown to make out the case. On this occasion, however, witnesses had been called for the defendant, and amongst them witnesses who, if the Shenandoah had not put into Liverpool, he should not have been able to call, and they had distinctly sworn that the defendant did not use the words of encouragement or persuasion to induce the men to join that ship. They were men not involved in the transaction with regard to the Sea King, and had nothing to gain or lose by the case, and who were perfectly independent and important witnesses. There was, therefore, no reason to doubt the truth of their evidence.

The accuracy of the recollection of these men applied as much to the witnesses for the Crown; and, besides, they had had no opportunity, like the Crown witnesses, of refreshing their memory; and if they had not, they stood in the same position as to the correctness of their memory as the witnesses for the Crown.

One, however, had had his memory refreshed, and his attention drawn to the circumstances, from reading at Melbourne an account of the proceedings against Captain Corbett at the police station. Easman's evidence as to the sale of the vessel on the 18th had not been contradicted by the witnesses who were recalled this morning by the Crown, and he reminded them that Hurcrist was the only man on the part of the

Crown who swore to a bucket of gold in the cabin, while it had been denied by all the defendant's witnesses, who further added that they did not see any gold offered to the men by the confederate officers. One, however, did say he saw a bag of gold put on the table, and that it might have contained one hundred sovereigns. There was no consistency, he urged, in the evidence for the prosecution with regard to the gold and the offers of money by the confederate officers. It was such a curious invention or story that it deserved to be thoroughly sifted, and on doing that they found that the majority of the witnesses negatived such being the fact. The defendant's witnesses also negatived most positively the defendant's offer of high wages and a large bounty to the men if they joined the Shenandoah; and though different words were used by them, they in substance agreed with each other; which, he submitted, was a proof that they were telling the truth and not repeating a concocted statement. If they believed them, Captain Corbett was not guilty; but if they found him guilty, he submitted they could not do so without finding them guilty of perjury. Elliston and Benjamin Selles differed as to what the defendant said with the other witnesses for the prosecution, and in substance confirmed the defendant's witnesses. Was it to be said that a man had committed a criminal offense when he merely gave the men the option of joining the ship or going back with him in the Laurel? Strong pressure was put on the men by the confederate officers, and there was no doubt that they used all the influence it was possible to suppose would influence such men; and was it not possible that the witnesses for the Crown had put the words used by the confederate officers into the defendant's mouth? Could they, believe the man Allen, one of the naval reserve men, that the defendant said he would keep his joining the Shenandoah quiet, and as he made a statement before the consul at Tenerife different from what he stated in the box, then he submitted the witness was not to be believed. No one could doubt the prosecution had been got up fairly and had been conducted in good faith, and it was only reasonable to believe that the Crown had examined the boatswain and carpenter, who could, if Allen's statement was correct, have corroborated him.

That had not been done. If he had been called into the cabin by Captain Corbett, as he had stated, many witnesses could have been called in support of his statement. He was never in the cabin with Captain Corbett, but he was with Captain Waddell, and he might have mixed up the two and improperly have put into Captain Corbett's mouth what Captain Waddell had said to him. If they, however, came to the conclusion that Captain Corbett did use the words, then came the question, was it said in the British dominions? In this instance, on board a British vessel. They had the evidence of Allcott, who said that ten minutes before he got on board the vessel he was ordered to report himself to Captain Waddell. They had the Laurel, a British vessel, leaving Liverpool with a cargo, one is sorry to think, as not left this country during the civil war in America to run the blockade for the confederate service. It was probable those who sent those cargoes endeavored to keep it as secret as possible, and the men who had been called, and who were in the confederate service at the time, had sworn that they knew nothing of the destination of the Laurel. They believed they were going to run the blockade, and serve that country to which they were attached, and, as they believed, owed allegiance; but those who sent them no doubt knew where they were to go, and that they were to join the Sea King. It was no uncommon thing for a man to go to sea with sealed orders. It was clear that some one knew the destination of the Sea King when she left this country, and it was not unreasonable to suppose that they kept it as secret as possible, because by so doing they were infringing the laws of this country. It was not for them to assume, in the absence of proof, that he knew it. In order to be a British ship, she must be British owned.

THE LORD CHIEF JUSTICE. You might put it this way. If an American subject had that morning committed murder on board that ship, could he have been tried as within British jurisdiction?

Mr. James said he could not, and he was obliged to his lordship for that strong way of putting it, because if he could have been tried for murder, he would have been equally amenable for minor offenses. On the 4th October, Captain Bullock, the confederate agent at Liverpool, gave instructions in writing for Allcott to report himself to the captain of the Shenandoah, when it was to be handed to Allcott, who was then to report himself. Was not, therefore, the Shenandoah essentially transferred before she left England, and the contract completed on the 18th, when she was handed over to the defendant? The transaction was as plain as the sun at noon-day; and what was done after the 18th, was not done on board a British ship. There was no evidence to show that Captain Corbett had transgressed the laws of the land.

The lord chief justice said the question on that point was, whether, when the defendant left England, there was a continuous intention, when she was handed over, that the men should be induced to join her.

The solicitor general replied on the whole case, urging strongly that the Crown had made out the case against the defendant.

The lord chief justice then summed up. He was very inaudible, but he was under-

stood to say that the first question and main question was, whether they were satisfied that the defendant had used the language on board the vessel on the 19th, which had been ascribed to him by the witnesses for the Crown, because it could but bear one construction, and that was, that he was endeavoring to induce his crew or part of them to enlist in the confederate service. Were these men, therefore, intentionally misrepresenting what took place on board the vessel? Many of them no doubt felt considerable dissatisfaction with the defendant's conduct in terminating the voyage so abruptly, and when they came home there could be no doubt they thought to have had a larger amount of wages than was paid to them. His lordship referred to the position in life of the men whose demeanor and evidence it was for them to weigh, and with regard to the money paid to them by the Crown, said it was necessary for them to remain in this country until after this case was tried, and what they were paid, twenty-five shillings per week, was not more than they would have earned if at sea. They should bear in mind that there was a material difference between the evidence for the Crown and that given for the defense. The former said nothing was said to them before the 19th about the transfer of the ship, whereas the defendant's witnesses said it was on the 18th. Then there was strong evidence to disprove Hurcom's evidence with regard to the bucketful of sovereigns, and as he went further than the others they would take that into consideration in weighing his evidence. What he represented was said by the defendant, there was evidence to show was in reality said by Captain Waddell. Charles Sell said Captain Waddell referred to the ship not going to fight, and not the defendant, who was more likely of the two to make that statement. Benjamin Sell gave also a very different account of the conversation from the former witness. They would observe that some of the statements were short of others, and some put words into the defendant's mouth which the others ascribed to Captain Waddell. It was, therefore, of importance that they should give it their most serious consideration, for if the defendant did use the words attributed to him, he had committed an offense under the foreign enlistment act. He should also remind them that Allen's account of the conversation differed from the other witnesses for the Crown. The witnesses called on the part of the defense comprised, first, three officers who were on board the *Sea King*. If they could place reliance on Easman's evidence, it would go much to shake the veracity of the evidence for the Crown; and if the evidence of Easman, Elliott, and the other was to be believed, there could be no doubt the men knew on the morning of the 19th that the vessel had been transferred to the Confederate States, but that they seemed reluctant to leave the ship until they had had an explanation from Captain Corbett. Then it was that the witnesses for the Crown said he induced them to join the *Shenandoah*, but which the other witnesses denied, and said it was Captain Waddell who asked them to enlist, offered high wages and a considerable bounty. Asking a release from the five men who remained, showed no anxiety on his part to get rid of them, and on the other hand it was unnecessary, for if they joined the ship they would have had no further claim. That there was money on board to pay the men there could be no doubt, but whether it was in a bucket or a bag was immaterial other than as affecting the credibility of the witness. Easman was solicited to remain on board by the American officers, and on his asking the defendant's advice he said, "don't think of it, go home." Two of the *Laurel's* men afterwards joined the *Shenandoah*, and on some of the firemen of the *Sea King* wishing to join her, the defendant refused to allow them to do so, but it did not follow from that that he might not before have used language to induce them to join; yet, on the other hand, it would appear strange that he should have thrown obstacles in the way of carrying out what it was alleged was one of the main objects he had in view. Easman's evidence was at first unsatisfactory with regard to the hoisting of the signal for the *Laurel*, but he afterwards appeared to explain it, and it was for them to give such effect to it as they considered it deserved, and if his evidence was believed he certainly negatived Captain Corbett's saying anything of the kind attributed to him. Elliott, the chief engineer's evidence, was that he was told by the defendant on the 18th that the ship was sold, and that he was to inform the firemen to prepare to leave the vessel, and that he did it. In a ship like this, if a single man had been informed it was sold, there was not a man who would not immediately have known it, in fact, it would have spread like wildfire from stem to stern. The steward was also told on the 18th, by Captain Corbett, that he had sold the ship to Captain Waddell, and also that on asking his advice as to remaining in the ship, Captain Corbett declined to advise him one way or the other. In addition to them there were the American witnesses who served on board the *Shenandoah*, and Allcott's evidence was a very natural and true account of what took place, because, the notion of what the defendant was going to do might have had something to do with their continuing allegiance to their country, because when they found she was going to sink, burn, and destroy federal commerce, and that if in a fix they would have to fight themselves out, they said they would not go; a significant circumstance also occurred on board the *Laurel*, namely, an order to Allcott to report himself for duty on board the *Shenandoah*, evidently showing that everything had been arranged before the *Laurel* left Liverpool. It was for them to say whether this evidence was such as

caused them not to be able to rely on the evidence for the Crown. No doubt when he got rid of the ship he would have been better pleased had the men joined the ship, because he would then have got rid of the liability for their wages. It might have been that in the confusion, the witnesses for the Crown might have mistaken the conversation without having perjured themselves. Then comes the next question. If they were satisfied that the defendant, when he left London, knew she was sold to the confederates and to whom he was to hand her over, it made it more probable but not necessarily that he should lend a hand to induce the men to continue in her. He might have had no other object than simply taking the vessel out and handing her over. Then he might have had an interest in getting rid of the men. Did they believe that the defendant made the representations alleged, to Allen personally to join the ship? There were two witnesses to that point, but none were called to contradict them. At the same time it was to be borne in mind, that Allen and Harrison differed in their evidence on that point. The solicitor general's observations that Captain Waddell might have been called, and had not by the defendant, was a matter worthy of consideration, as he could have told them what really did take place. The question for them, was whether the defendant did use the language generally and also personally to Allen, and if they were of opinion then would arise the question whether the offense had been committed on board a British ship, which he should hold was in law a part of the British dominions. The fact was that the ship had been sold and transferred to the confederate government, and there could be no doubt that in fact she had been sold, but whether in law she had changed her nationality at the time was another question. About that point they would have no doubt. Then came the question whether he, when he engaged these men, had in his mind to place them in a position to enable American officers, by exercise of their powers over them, to endeavor to get them to enlist. He did not mean now to say that was an offense, but he thought there was an obvious motive for engaging these men, namely, that of allowing them to deliver over the ship, and if they believed that was the only motive he had and no ulterior design, then this question which would give rise to a point of law did not arise in this case. The vessel was bought and sold in this country, and when the defendant said he knew nothing about it before he got to Madeira, that was not the truth. Certainly his instructions were to obey the person who turned out to be a confederate officer, and it might have been that when at sea he instructed the defendant to sail for Madeira. It was not too much to assume that the defendant was cognizant of the destination of the *Shenandoah*, but that was not the question for them to decide on this indictment, but it went to explain the motive of his language spoken to by the witnesses for the Crown. If the evidence was to be relied on, the defendant had taken trouble to obtain single men, but the chief mate had informed them that he engaged most of the crew, and that the majority of them were married men.

The jury retired at a quarter to three o'clock to consider their verdict, and in about five minutes returned a verdict of "Not guilty," which was received with a slight attempt at applause. The jury asked for some additional remuneration. They ought to have a guinea a day. The solicitor general said he would do what was necessary. The lord chief justice said he could make no order. He wished, the fee was abolished, or a more commensurate remuneration given to jurors.

The jury were then paid by the Crown £3 3s. each.

